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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

\_\_\_\_\_  
In re: §  
§ Chapter 11  
SHERWIN ALUMINA COMPANY, LLC, *et al.*,<sup>1</sup> §  
§ Case No. 16-20012 (DRJ)  
§  
Debtors. § (Jointly Administered)  
§  
\_\_\_\_\_

**DEBTORS' MODIFIED JOINT CHAPTER 11 PLAN**

Dated: January 4, 2017

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<sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sherwin Alumina Company, LLC (2376) and Sherwin Pipeline, Inc. (9047). The debtors' service address is: 4633 Highway 361, Gregory, Texas 78359.



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Sherwin Alumina Company, LLC and Sherwin Pipeline, Inc., as debtors and debtors in possession, propose the following joint plan pursuant to chapter 11 of title 11 of the United States Code. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in Article I.A hereof.

The Plan is supported by the Debtors' two primary stakeholders: the Committee and Commodity Funding, LLC (both in its capacity as the Prepetition Secured Lender and the DIP Lender). The Plan also has the support of the PBGC and will not be opposed by the Union.

The Plan, if consummated, will effectuate the terms of both the Global Settlement and the Sale Transaction. In addition, the Plan implements an extensively negotiated arrangement to address the Debtors' environmental liabilities under which the Main Facility will be remediated or otherwise addressed as appropriate under applicable law, and the DIP Lender or an Affiliate thereof will, subject to the terms of the Plan, contribute the Excluded Assets (including, without limitation, the Sherwin Alumina Ranch and the Sherwin Alumina Cattle) up to the Excluded Assets Cap, and the Environmental Claims Cash Amount, to fund the duties of the Copano Beds and Ranch Administrator, as more fully described herein.

The Debtors have requested consolidation for procedural purposes only for the Chapter 11 Cases. Holders of Claims and Interests may refer to the Disclosure Statement for a discussion of the Debtors' history, businesses, results of operations, historical financial information, and a summary and analysis of the Plan and certain related matters. Each of the Debtors is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code.

## ARTICLE I DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW

### A. *Defined Terms.*

As used in this Plan, capitalized terms have the meanings and effect as set forth below.

1. "Accrued Professional Compensation Claims" means, at any given moment, all Claims for accrued fees and expenses for services rendered by a Professional through and including the Confirmation Date, to the extent such fees and expenses have not been paid pursuant to the Interim Compensation Order or any other order of the Bankruptcy Court and regardless of whether a fee application has been Filed for such fees and expenses; *provided* that the Accrued Professional Compensation Claims with respect to Andrews Kurth LLP and Gavin Solmonese LLC shall be Allowed in an amount no greater than the Committee Professionals Escrow Amount with respect to each such Professional; *provided, further*, that, to the extent the Bankruptcy Court denies or reduces by a Final Order any amount of a Professional's fees or expenses, then the amount by which such fees or expenses are reduced or denied shall reduce the applicable Accrued Professional Compensation Claim and the Professional Fee Escrow Amount with respect to such Claim. For the avoidance of doubt, the Accrued Professional Compensation Claims with respect to Andrews Kurth LLP and Gavin Solmonese LLC shall equal the Committee Professionals Escrow Amount solely for purposes of the Global Settlement, and all rights regarding the Committee Professionals Escrow Amount are reserved and fully preserved if the Plan is not Confirmed, the Effective Date does not occur, or the Global Settlement is not otherwise consummated.

2. "Acquired Assets" shall have the meaning set forth in the Purchase Agreement; *provided*, notwithstanding anything contained in the Purchase Agreement, the Acquired Assets shall not include the Sherwin Alumina Ranch or the Sherwin Alumina Ranch Cattle.

3. "Administrative Claim" means a Claim (other than an Accrued Professional Compensation Claim) for costs and expenses of administration of the Estates pursuant to sections 503(b) or 507(a)(2) of the Bankruptcy Code, including the actual and necessary costs and expenses of preserving the Estates and operating the business of the Debtors incurred after the Petition Date and through the Effective Date, and fees and charges assessed against the Estates pursuant to chapter 123 of the Judicial Code, including the fees of the U.S. Trustee payable pursuant to section 1930(a) of the Judicial Code. Notwithstanding anything to the contrary herein: (a) the DIP Claims, any Cure Amounts with respect to any Executory Contract or Unexpired Lease that is assumed or assumed and assigned

in connection with the Sale Transaction or the Plan, and any adequate protection obligations under the Final Cash Collateral Order (including, for the avoidance of any doubt, any and all Adequate Protection Obligations and Adequate Protection Claims), as applicable, shall not constitute Administrative Claims for any purpose under the Plan and shall not affect the Global Settlement Priority Claims Funding Cap; and (b) as a result of the Proposed Environmental Claims Settlement, any Environmental Claims that are Administrative Claims shall be treated exclusively as set forth in Article IV of the Plan and shall not be considered General Administrative Claims.

4. “Administrative Claims Bar Date” means the first Business Day that is 15 days following the Effective Date, as such date may be extended from time to time by the Plan Administrator with the prior written consent of the DIP Lender; *provided* that, solely with respect to any Claim under section 503(b)(9) of the Bankruptcy Code, the Administrative Claims Bar Date shall mean the Claims Bar Date.

5. “Administrative Claims Payment Date” means, with respect to an Administrative Claim, the earlier of: (a) on the Effective Date; (b) if the Administrative Claim is not Allowed as of the Effective Date, as soon as reasonable practicable after the date on which an order Allowing such Administrative Claim becomes a Final Order; or (c) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the Holders of such Allowed Administrative Claims and without any further notice to or action, order, or approval of the Bankruptcy Court.

6. “Affiliate” has the meaning set forth in section 101(2) of the Bankruptcy Code.

7. “Allowed” means with reference to any Claim or Interest, as applicable, (a) any Claim that has been listed on the Schedules as liquidated in amount and not Disputed or contingent and for which (i) no contrary Proof of Claim has been Filed, (ii) no objection to allowance, request for estimation, or other challenge has been interposed, and (iii) no motion to deem the Schedules amended has been Filed, (b)(1) any Proof of Claim or Proof of Interest that is timely Filed by the applicable Claims Bar Date, as to which no litigation (whether stayed or unstayed) is pending and to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, or the Bankruptcy Court, if any, and (2) any Claim that is not subject to any applicable Claims Bar Date, as to which no objection or other challenge has been or is interposed in accordance with the Plan or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, if any, (c) any Claim expressly allowed by a Final Order or under the Plan, (d) any Claim that is compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors pursuant to a Final Order or under the Plan, (e) any Claim arising from the recovery of property in accordance with sections 550 and 553 of the Bankruptcy Code and Allowed in accordance with section 502(h) of the Bankruptcy Code (unless such Claim is otherwise Disputed), (f) any Claim allowed by stipulation approved by the Bankruptcy Court, and/or (g) any Interest registered in the ownership register or otherwise on the Debtors’ books and records, maintained by, or on behalf of, the Debtors as of the Voting Record Date; *provided, however*, for the avoidance of doubt, that no Claim that is otherwise subject to disallowance under section 502(d) of the Bankruptcy Code will be deemed Allowed. Except as otherwise provided in the Plan, for purposes of determining the amount of an “Allowed Claim,” there shall be deducted therefrom an amount equal to the amount of any Claim that the Debtors may hold against the Holder thereof, to the extent such Claim may be offset pursuant to applicable non-bankruptcy law or subject to recoupment. Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not constitute “Allowed Claims” under the Plan unless otherwise specified in the Plan or by order of the Bankruptcy Court. For any purpose under the Plan, unless specifically provided for in the Plan, a Claim that has been Allowed shall not include amounts constituting interest, penalties, or late charges arising from or relating to the period from and after the Petition Date. Any Claim or Interest that has been or is hereafter listed in the Schedules as disputed, contingent, or unliquidated for which no Proof of Claim or Interest has been timely Filed and which is not included in subsections (a)-(g) herein, is not considered an Allowed Claim or Allowed Interest and shall be expunged without further action by the Debtors and without any further notice to or action, order, or approval of the Bankruptcy Court.

8. “Assumed Liabilities” shall mean any Claim against any Debtor that is assumed by the Buyer, in each case solely to the extent provided in the Purchase Agreement.

9. “Auction” shall have the meaning ascribed to such term in the Bid Procedures Order.
10. “Avoidance Actions” means any and all actual or potential claims and causes of action to avoid a transfer of property or an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including sections 502, 510, 542, 544, 545, 547–553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws. For the avoidance of any doubt, “Avoidance Actions” shall include any and all potential claims or causes of action with respect to Surela Investments Ltd.’s transfer to Sherwin Alumina of the Surela Note in June 2015.
11. “Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. §§ 101–1532.
12. “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of Texas having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of any reference under 28 U.S.C. § 157, pursuant to section 151 of the Judicial Code, the United States District Court for the Southern District of Texas.
13. “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local, and chamber rules of the Bankruptcy Court.
14. “Bid Procedures” means the bid procedures attached as Exhibit 1 to the Bid Procedures Order.
15. “Bid Procedures Order” means the *Order (A) Approving Bidding Procedures, (B) Approving Contract Assignment Procedures, (C) Approving Bid Protections, (D) Scheduling Bid Deadlines and an Auction and (E) Approving the Form and Manner of Notice Thereof* [Docket No. 433].
16. “Business Day” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).
17. “Buyer” shall mean Corpus Christi Alumina LLC in its capacity as “Buyer” under the Purchase Agreement.
18. “Cash” means the legal tender of the United States or the equivalent thereof.
19. “Causes of Action” means any claim, cause of action (including Avoidance Actions), controversy, right of setoff, cross-claim, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, fixed or contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, Secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law.
20. “CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*
21. “Certificate” means any instrument evidencing a Claim or Interest.
22. “Chapter 11 Cases” means the jointly administered chapter 11 cases of the Debtors pending before the Bankruptcy Court under the lead case of Sherwin Alumina Company, LLC, *et al.*, No. 16-20012 (DRJ) (Bankr. S.D. Tex.).
23. “Claim” means any “claim” (as defined in section 101(5) of the Bankruptcy Code) against a Debtor.
24. “Claims Bar Date” means the “Claims Bar Date” (as defined in the Claims Bar Date Order).



25. “Claims Bar Date Order” means the *Order (I) Setting the Bar Date for Filing Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing Amended Schedules Bar Date and Rejection Damages Bar Date, (III) Approving the Form and Manner for Filing Proofs of Claim, Including Section 503(b)(9) Requests, and (IV) Approving Notice of Bar Dates* [Docket No. 248].

26. “Claims Register” means the official register of Claims maintained by the Clerk of the Bankruptcy Court.

27. “Class” means a category of Holders of Claims or Interests as set forth in Article III of the Plan in accordance with section 1122(a) of the Bankruptcy Code.

28. “Committee” means the official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code on January 21, 2016 [Docket No. 142], as amended [Docket No. 304].

29. “Committee Claim Objection” means the *Objection of the Official Committee of Unsecured Creditors to Scheduled Claim of Commodity Funding, LLC* [Docket No. 395].

30. “Committee Complaint” means the *Complaint and Amended Claim Objection, filed by Official Committee of Unsecured Creditors of Sherwin Alumina Company, LLC, et al.* [Docket No. 456], as amended [Docket No. 462].

31. “Committee Professionals Escrow Amount” means, solely for purposes of the Global Settlement contemplated by the Plan, the following amounts with respect to Andrews Kurth LLP and Gavin Solmonese LLC: (a) with respect to Andrews Kurth LLP, an amount equal to \$445,000 (which amount shall be reduced, on a dollar for dollar basis, by any payments made by the Debtors to Andrews Kurth LLP before the Effective Date); and (b) with respect to Gavin Solmonese LLC, an amount equal to \$175,000 (which amount shall be reduced, on a dollar for dollar basis, by any payments made by the Debtors to Gavin Solmonese LLC before the Effective Date). For avoidance of any doubt, Accrued Professional Compensation Claims of Andrews Kurth LLP and Gavin Solmonese LLC shall be paid in accordance with Article II.B.5 of the Plan.

32. “Confirmation” means the entry of a Confirmation Order on the docket of the Chapter 11 Cases.

33. “Confirmation Date” means the date upon which the Bankruptcy Court enters the Confirmation Order.

34. “Confirmation Hearing” means the hearing held by the Bankruptcy Court to consider entry of a Confirmation Order pursuant to section 1129 of the Bankruptcy Code.

35. “Confirmation Hearing Date” means the date on which the Confirmation Hearing commences.

36. “Confirmation Order” means a Final Order of the Bankruptcy Court, in form and substance acceptable to the Debtors and the DIP Lender, confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

37. “Consummation” means the occurrence of the Effective Date for the Plan.

38. “Copano Beds and Ranch Administrator” means the Entity identified in the Plan Supplement, which shall perform the actions set forth in Article IV.D of this Plan.

39. “Copano Disposal Facility” means that approximately 3,100-acre parcel located on the southern end of Copano Bay in San Patricio County, Texas and Aransas County, Texas, approximately ten miles north of the Main Facility. For the avoidance of doubt, the Copano Disposal Facility includes Copano Disposal Facility Bed 1 and Copano Disposal Facility Beds 2, 3, and 4.



40. “Copano Disposal Facility Beds” means the four above-ground impoundments used for managing the by-product from alumina production, described herein as Copano Disposal Facility Bed 1 and Copano Disposal Facility Beds 2, 3, and 4.

41. “Copano Disposal Facility Bed 1” means that portion of the Copano Disposal Facility that is approximately 838 acres in size and is located on the southern portion of the Copano Disposal Facility.

42. “Copano Disposal Facility Beds 2, 3, and 4” means the applicable portions of the Copano Disposal Facility other than Copano Disposal Facility Bed 1.

43. “Copano Disposal Facility Beneficial Reuse Option” means the use of the Copano Disposal Facility for a beneficial purpose, including the storage of dredge spoils.

44. “Copano Disposal Facility Closure Plan” means one or more closure plans with respect to the Copano Disposal Facility, which shall be developed by the Copano Beds and Ranch Administrator and submitted to the TCEQ for review and approval in accordance with applicable Environmental Law.

45. “Copano Property” means that approximately 11,000-acre parcel of property located approximately 10 miles north of the Main Facility, which parcel includes the Copano Disposal Facility and which parcel is part of the Excluded Assets.

46. “Cure Amounts” means all amounts (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) required to cure any monetary defaults and other obligations required to cure any non-monetary defaults (the performance required to cure such non-monetary defaults and the timing of such performance will be described in reasonable detail in a notice of proposed assumption and assignment) under any Executory Contract or Unexpired Lease that is to be assumed or assumed and assigned by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.

47. “Cure Notice” means any notice that is consistent with the Bid Procedures Order and sets forth the proposed Cure Amount under any Executory Contract or Unexpired Lease at the time such contract or lease is assumed or assumed and assigned by the Debtors under the Plan pursuant to sections 365 and 1123 of the Bankruptcy Code, as applicable, which notice shall include procedures for objecting to proposed assumptions or assignments of Executory Contracts and Unexpired Leases, Cure Amounts to be paid in connection therewith, and procedures for resolution by the Bankruptcy Court of any related disputes. The Debtors previously served a Cure Notice on relevant counterparties in accordance with the Bid Procedures Order.

48. “D&O Liability Insurance Policies” means all insurance policies for directors, members, trustees, officers, and managers’ liability maintained by the Debtors as of the Effective Date.

49. “Debtors” means, collectively, Sherwin Alumina and Sherwin Pipeline.

50. “DIP Claims” means any and all Claims for principal, interest, fees, costs, expenses, disbursements, and any and all other obligations of any kind under the DIP Facility, including any “DIP Obligations” (as defined in the Final DIP Order) owing as of the Effective Date.

51. “DIP Facility” means the “DIP Facility” under the Final DIP Order.

52. “DIP Facility Subordinated Claim” means the Allowed Claim granted to the DIP Lender upon the Effective Date against the Debtors and the Copano Beds and Ranch Administrator, which Claim shall be Secured by the DIP Facility Subordinated Lien on the Environmental Claims Assets, and which Claim shall be subject solely to the reasonable costs incurred by the Copano Beds and Ranch Administrator in accordance with the Plan in an amount not to exceed the Excluded Assets Cap.

53. “DIP Facility Subordinated Lien” means a Lien granted to the DIP Lender upon the Effective Date on the Environmental Claims Assets to secure the DIP Facility Subordinated Claim.

54. “DIP Lender” means Commodity Funding, LLC, in its capacity as lender under the DIP Facility.

55. “Disclosure Statement” means the *Disclosure Statement for the Debtors’ Modified Joint Chapter 11 Plan*, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code [Docket No. 953].

56. “Disclosure Statement Order” means the Final Order entered by the Bankruptcy Court [Docket No. 950], in form and substance acceptable to the Debtors and the DIP Lender, approving the adequacy of the Disclosure Statement and certain procedures for solicitation of votes on the Plan and granting related relief.

57. “Distribution Record Date” means the record date set forth in the Disclosure Statement Order for purposes of making distributions under the Plan on account of Allowed Claims.

58. “Disputed” means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed. For the avoidance of doubt, a Disputed Claim or Interest shall not include any Claim or Interest that has been disallowed under the Plan or by Final Order.

59. “Disputed Claims Reserve” means a reserve in an amount equal to the Disputed Claims Reserve Amount for distributions on account of Disputed Claims that are subsequently Allowed after the Effective Date. To the extent that any Claim is Disputed, on the Effective Date, the Debtors shall transfer the *pro rata* portion of such Claim’s distribution under the Plan to the Disputed Claims Reserve, where such amount shall be held in trust for the benefit of such Holder pending resolution by a Final Order or as otherwise agreed between the Plan Administrator and such Holder. To the extent that a Disputed Claim ultimately is disallowed by a Final Order, any amount held in the Disputed Claims Reserve on account of such Claim shall be distributed in accordance with Article III of the Plan. The DIP Lender shall have a reversionary interest in the excess, if any, of any Cash or other property held in the Disputed Claims Reserve on account of any Administrative Claim, Other Secured Claim, Priority Tax Claim, Other Priority Claim, and/or General Unsecured Claim that is a Disputed Claim after such Disputed Claim ultimately is disallowed by a Final Order.

60. “Disputed Claims Reserve Amount” means the amount of assets determined prior to the Effective Date by the Debtors and the DIP Lender that would likely have been distributed to the Holders of all applicable Disputed Claims against the Debtors as if such Disputed Claims against the Debtors had been Allowed Claims against the Debtors on the Effective Date, with the amount of such Allowed Claims to be determined, solely for the purposes of establishing reserves and for maximum distribution purposes, to be (a) the lesser of (i) the asserted amount of each Disputed Claim against the Debtors as scheduled by the Debtors or, if and solely to the extent a non-duplicative Proof of Claim was filed in an asserted amount greater than the scheduled amount, the asserted amount filed with the Bankruptcy Court as set forth in such non-duplicative Proof of Claim or as provided by the parties to the Debtors as further information with respect to the Proof of Claim, and (ii) the amount, if any, estimated by the Bankruptcy Court pursuant to section 502(c) of the Bankruptcy Code or ordered by other order of the Bankruptcy Court, or (b) the amount otherwise agreed to by the Debtors, the DIP Lender, and the Holder of such Disputed or unliquidated Claim for reserve purposes.

61. “Effective Date” means, with respect to the Plan, the date that is a Business Day selected by the Debtors and the DIP Lender on or after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; (b) all conditions precedent specified in Article IX.A of the Plan have been satisfied or waived (in accordance with Article IX.C of the Plan); and (c) the Debtors, with the consent of the DIP Lender, declare that the Plan is effective. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable after the Effective Date; *provided that* the Effective Date shall not occur until (x) the Debtors or the DIP Lender (or an Affiliate thereof), as applicable, have funded their respective allocable portions of the Global Settlement Reserve and (y) the DIP Lender (or an Affiliate thereof) has funded the Environmental Claims Cash Amount, as set forth in this Plan, in each case, on the Effective Date.

62. “Energy Services Agreement” means the Energy Services Agreement, dated as of June 30, 1998 (as amended from time to time in accordance with the terms thereof, including all schedules, exhibits, and supplements thereto), between GPP and Sherwin Alumina, as successor in interest to Reynolds.

63. “Entity” shall have the meaning set forth in section 101(15) of the Bankruptcy Code.
64. “Environmental Claims” means any and all Claims against, and other responsibilities, obligations, or liabilities of, the Debtors or any of their Affiliates relating to or arising under any Environmental Laws.
65. “Environmental Claims Cash Amount” means \$250,000 in Cash, which the DIP Lender (or an Affiliate thereof) will contribute to or for the benefit of the Copano Beds and Ranch Administrator, on the Effective Date, to permit the Copano Beds and Ranch Administrator to carry out its duties, as set forth in the Plan.
66. “Environmental Claims Assets” shall mean, collectively: (a) the Cash and other proceeds generated by any sale of Excluded Assets; and (b) the Environmental Claims Cash Amount.
67. “Environmental Laws” means any and all federal, state, and local statutes and regulations or other laws (including common law) relating to pollution, preservation, remediation, or the protection of the environment, natural resources, human health or safety, or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems, including, without limitation, for the avoidance of doubt, CERCLA, the Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), and the Clean Water Act (33 U.S.C. § 1251 *et seq.*), and any analogous state law equivalents.
68. “Estate” means, as to each Debtor, the estate created for each Debtor on the Petition Date pursuant to sections 301 and 541 of the Bankruptcy Code.
69. “Estate Released Party” means: (a) Thomas Russell (in his capacity as the Debtors’ former President, Chief Executive Officer, and manager of Sherwin Alumina’s Board of Managers); (b) Alan J. Carr (in his capacity as a member of the Board of Managers of Sherwin Alumina); (c) Kent Britton (in his capacity as the Debtors’ President, Chief Executive Officer, and Chief Financial Officer and a member of the Board of Managers of Sherwin Alumina); and (d) Cheryl Driscoll (in her capacity as a member of the Board of Managers of Sherwin Alumina).
70. “Estate Released Parties” means, collectively, each Estate Released Party.
71. “Excluded Assets” shall have the meaning set forth in the Purchase Agreement, except that for purposes of this Plan and the Confirmation Order, it shall not refer to Excluded Inventory. For the avoidance of doubt, notwithstanding anything contained in the Plan, the Buyer shall have the right in its sole discretion to add any of the Excluded Assets (other than the Sherwin Alumina Ranch or the Sherwin Alumina Cattle) to the list of Acquired Assets, subject to and in accordance with the terms of the Purchase Agreement.
72. “Excluded Inventory” shall have the meaning set forth in the Purchase Agreement.
73. “Excluded Inventory Proceeds” shall mean any Cash or other net proceeds generated by the sale of Excluded Inventory.
74. “Excluded Assets Cap” means \$6,250,000.
75. “Exculpated Claim” means any claim related to any act or omission in connection with, relating to, or arising out of: (a) the Chapter 11 Cases, the Restructuring Documents, and/or the Restructuring Transactions; (b) the formulation, preparation, dissemination, or negotiation of any document in connection with the Chapter 11 Cases, the Restructuring Documents, and/or the Restructuring Transactions; (c) any contract, instrument, release, and/or other agreement or document created or entered into in connection with the Chapter 11 Cases, the Restructuring Documents, or the Restructuring Transactions; (d) the pursuit of Consummation; and/or (e) the Filing, administration, and/or implementation of the Chapter 11 Cases, the Restructuring Documents, and/or the Restructuring Transactions or the distribution of property in connection therewith or thereunder.

76. “Executory Contract” means a contract to which a Debtor is a party that is subject to assumption, assumption and assignment, or rejection under sections 365 or 1123 of the Bankruptcy Code.

77. “Expired CBA” means the collective bargaining agreement between Sherwin and the Union, entered into on February 9, 2011, with a stated term through July 30, 2014, covering terms and conditions of employment for certain hourly employees at the Main Facility, including any side agreements, letters of agreement, memoranda of agreement, amendments, supplements, and/or extensions, which expired on September 30, 2014.

78. “Expired CBA Claim” shall mean any Claim that has been asserted or that may be asserted by any Union Member and/or the Union on behalf of any Union Member under the Union Closure Agreement to the extent that such Claim has not been satisfied by the Debtors prior to the Effective Date in accordance with the Union Closure Agreement. For purposes of the Plan, Expired CBA Claims shall constitute General Unsecured Claims. Neither the Union nor any Union Member may assert any Claims for alleged violations of the Expired CBA or any of its terms, unresolved grievances or arbitrations, unpaid compensation or benefits, violations of seniority rights, unvested retiree medical benefits, and/or other rights or obligations arising under or related to the Expired CBA (including any post-expiration terms and conditions of employment related to or arising under the Expired CBA), or the employment of Union Members at the Main Facility as Expired CBA Claims, except as expressly provided in the Union Closure Agreement.

79. “Federal Judgment Rate” means the federal judgment rate in effect as of the Effective Date.

80. “File,” “Filed,” or “Filing” means file, filed, or filing in the Chapter 11 Cases with the Bankruptcy Court or, with respect to the filing of a Proof of Claim or Proof of Interest, the Notice and Solicitation Agent.

81. “Final Cash Collateral Order” means the *Final Order (I) Authorizing the Debtors to Utilize Cash Collateral, (II) Granting Adequate Protection to the Prepetition Secured Lender, (III) Modifying the Automatic Stay, and (IV) Granting Related Relief* [Docket No. 431] and any other subsequent order authorizing the Debtors to utilize the Prepetition Secured Lender’s “cash collateral” (as such term is defined in section 363 of the Bankruptcy Code).

82. “Final DIP Order” means the *Final Order (I) Authorizing Debtors to (A) Obtain Post-Petition Secured Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Super-Priority Administrative Expense Claims, (III) Granting Adequate Protection to Prepetition Secured Lender, and (IV) Modifying the Automatic Stay* [Docket No. 806].

83. “Final Order” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought; *provided* that the possibility that a motion under rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Bankruptcy Local Rules, may be Filed relating to such order shall not prevent such order from being a Final Order; *provided, further*, that, with the exception of the Confirmation Order (which is addressed in Article IX) of the Plan, the Debtors reserve the right to waive any appeal period.

84. “General Unsecured Claim” means any Claim that is not Secured and that is not: (a) an Other Secured Claim; (b) a Prepetition Secured Credit Facility Claim; (c) an Administrative Claim; (d) a Priority Tax Claim; (e) an Other Priority Claim; (f) an Intercompany Claim; (g) a DIP Claim; (h) an Accrued Professional Compensation Claim; or (i) a Subordinated Claim. For the avoidance of doubt, any PBGC Claim shall constitute a General Unsecured Claim.

85. “Global Settlement” means the settlement by and among the Debtors, the Committee, and the Prepetition Secured Lender (on behalf of itself and its Affiliates) agreed to on March 26, 2016, by the Debtors, the Committee, and the Prepetition Secured Lender in connection with the Mediation.

86. “Global Settlement GUC Debtor Reserve” means Cash in an amount not less than \$1,500,000 that the Debtors shall have reserved prior to the Effective Date to fund a portion of the Global Settlement Reserve.

87. “Global Settlement GUC Distribution” means an amount equal to, without duplication: (a) if total Allowed Class 4A and Class 4B General Unsecured Claims as of the Effective Date are no greater than \$37,500,000, an amount equal to \$4,000,000, of which each Holder of an Allowed Class 4A and Allowed Class 4B Claim shall receive a 10% recovery on account of such Claim, and the remaining portion of the \$4,000,000 distribution shall be allocated for the benefit of the Union Settlement Escrow; (b) if total Allowed Class 4A and Class 4B General Unsecured Claims as of the Effective Date are greater than \$37,500,000 but less than \$47,500,000, an amount no less than \$4,000,000 and no greater than \$5,000,000, such that each Holder of an Allowed Class 4A and Allowed Class 4B Claim shall receive a 10% recovery on account of such Claim, and \$250,000 shall be allocated for the benefit of the Union Settlement Escrow; or (c) if total Allowed Class 4A and Allowed Class 4B General Unsecured Claims as of the Effective Date are greater than \$47,500,000, an amount equal to \$5,000,000, of which each Holder of an Allowed Class 4A and an Allowed Class 4B Claim shall receive its pro rata share on account of such Claim; *provided* that if neither Class 4A nor Class 4B votes to accept the Plan, then the distributions to Holders of Allowed Class 4A and Allowed Class 4B Claims set forth above shall revert to the DIP Lender or an Affiliate thereof; *provided, further*, that if Class 4A, but not Class 4B, votes to accept the Plan, then the distributions to the Union Settlement Escrow set above in clauses (a) and (b) shall instead be distributed to Holders of Allowed Class 4A Claims on a pro rata basis; *provided, further, however*, if Class 4B, but not Class 4A, votes to accept the Plan, then the distributions to Holders of Allowed Class 4A Claims set forth above shall instead be distributed to Holders of Allowed Class 4B Claims on a pro rata basis. Notwithstanding anything in the Plan to the contrary, the Global Settlement GUC Distribution shall not be less than \$4,000,000 or greater than \$5,000,000.

88. “Global Settlement GUC Funding Amount” means a Cash contribution by the DIP Lender (or an Affiliate thereof) equal to the Global Settlement GUC Distribution less the Global Settlement GUC Debtor Reserve; *provided* that the Global Settlement GUC Funding Amount shall not in any circumstance exceed \$3,500,000.

89. “Global Settlement Priority Claims Deficiency Amount” means the amount equal to: (a) the aggregate Allowed amount of the following Claims against the Debtors remaining unpaid as of the Effective Date, without duplication: (i) Administrative Claims; plus (ii) Priority Tax Claims; plus (iii) Other Priority Claims; plus (iv) Other Secured Claims; plus (v) Accrued Professional Compensation Claims (except to the extent such Accrued Professional Claims have been escrowed for in the Professional Fee Escrow Account); plus (vi) the Environmental Claims Cash Amount; less (b) the Cash held by the Debtors as of the Effective Date after the Global Settlement GUC Debtor Reserve has been funded by the Debtors; *provided* that the Global Settlement Priority Claims Deficiency Amount shall not include any Expired CBA Claims, PBGC Claims or Environmental Claims.

90. “Global Settlement Priority Claims Funding Amount” means a Cash contribution, if any, by the DIP Lender (or an Affiliate thereof) equal to the Global Settlement Priority Claims Deficiency Amount; *provided* that the Global Settlement Priority Claims Funding Amount, if any, shall not in any circumstance, unless otherwise expressly agreed to in writing by the Prepetition Secured Lender, exceed the Global Settlement Priority Claims Funding Cap; *provided, further*, that if the Global Settlement Priority Claims Deficiency Amount is zero or less than zero, then the Global Settlement Priority Claims Funding Amount shall be zero.

91. “Global Settlement Priority Claims Funding Cap” means \$1,000,000, as agreed to by the Debtors, the Committee, and the Prepetition Secured Lender in connection with the Global Settlement as of April 19, 2016.

92. “Global Settlement Reserve” means the Cash reserve contemplated by the Global Settlement, which reserve shall be comprised of: (a) the Global Settlement GUC Debtor Reserve; and (b) a cash reserve to be funded on the Effective Date by the DIP Lender (or an Affiliate thereof), which reserve shall be in an amount equal to: (x) the Global Settlement Priority Claims Funding Amount (if any); plus (y) the Global Settlement GUC Funding Amount.

93. “Governmental Environmental Entity” means any Governmental Unit asserting claims or having regulatory authority or responsibilities with respect to Environmental Laws. For purposes of the Plan, the TCEQ shall constitute a Governmental Environmental Entity.



94. “Governmental Unit” shall have the meaning set forth in section 101(27) of the Bankruptcy Code.
95. “GPP” means Gregory Power Partners, LLC.
96. “Holder” means any Entity holding a Claim or an Interest.
97. “Impaired” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is not Unimpaired.
98. “Independent Manager” means Alan J. Carr, solely in his capacity as the independent manager for Sherwin Alumina.
99. “Intercompany Claim” means any Claim against a Debtor held by another Debtor.
100. “Interest” means the common stock or shares, limited liability company interests, limited partnership units, preferred interests, and any other equity, ownership or profits interests of any Debtor or non-Debtor subsidiary of a Debtor and options, warrants, rights or other securities or agreements to acquire the common stock or shares, limited liability company interests, or other equity, ownership or profits interests of any Debtor or non-Debtor subsidiary of a Debtor (whether or not arising under or in connection with any employment agreement).
101. “Interim Compensation Order” means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 337].
102. “Interim DIP Order” means the *Interim Order (I) Authorizing Debtor to (A) Obtain Post-Petition Secured Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Super-Priority Administrative Expense Claims, (III) Granting Adequate Protection to Pre-Petition Secured Lender, (IV) Modifying the Automatic Stay, and (V) Scheduling a Final Hearing* [Docket No. 76].
103. “Investigation Budget” has the meaning ascribed to such term in the Final DIP Order. For the avoidance of any doubt, the term “Investigation Budget” shall not mean the “Investigation Budget” as defined in the Interim DIP Order or the Final Cash Collateral Order.
104. “Judicial Code” means title 28 of the United States Code, 28 U.S.C. §§ 1–4001.
105. “Lien” shall have the meaning set forth in section 101(37) of the Bankruptcy Code.
106. “Main Facility” means the alumina production facility located in Gregory, Texas owned or leased, as applicable, and operated, by Sherwin Alumina; *provided* that for purposes of the Main Facility Closure Plan, the Main Facility shall not include the Copano Property.
107. “Main Facility Closure Plan” means a closure plan, which shall be submitted after the Effective Date by the Buyer to the TCEQ for review and approval in accordance with applicable Environmental Law.
108. “Mediation” shall mean the mediation before the Mediator, involving the Debtors, the Prepetition Secured Lender, the Committee, Noranda, GPP, and the Union, as applicable.
109. “Mediator” shall mean the Honorable Marvin Isgur, United States Bankruptcy Judge, in his capacity as mediator in connection with the Mediation.
110. “NBL” means Noranda Bauxite Limited, a Jamaica limited liability company.
111. “Noranda” means Noranda Aluminum, Inc. and its affiliated debtors and debtors in possession in the chapter 11 cases that were pending in the United States Bankruptcy Court for the Eastern District of Missouri under the caption *In re Noranda Alumina, Inc., et al.*, Case No. 16-10083.

112. “Noranda Settlement Order” means that certain *Global Settlement Stipulation Resolving Disputes Involving Sherwin Alumina Company and Noranda Bauxite Limited*, as approved by the Bankruptcy Court on October 24, 2016 [Docket No. 858].

113. “Notice and Solicitation Agent” means Kurtzman Carson Consultants LLC, in its capacity as such.

114. “Ordinary Course Professional” means an Entity (other than a Professional) retained and compensated by the Debtors in accordance with the Ordinary Course Professionals Order.

115. “Ordinary Course Professionals Order” means the *Order Authorizing the Debtors to Retain and Compensate Professionals Utilized in the Ordinary Course of Business* [Docket No. 338].

116. “Other Priority Claim” means any Claim against any Debtor entitled to priority in right of payment under section 507 of the Bankruptcy Code, other than an Administrative Claim or a Priority Tax Claim.

117. “Other Secured Claim” means a Secured Claim against any of the Debtors that is not: (a) a DIP Claim; or (b) a Prepetition Secured Credit Facility Claim.

118. “PBGC” means the Pension Benefit Guaranty Corporation, an agency of the United States.

119. “PBGC Claims” means any Claim asserted by the PBGC, including any Claim on account of any Proof of Claim filed by the PBGC [Claim Nos. 237, 238, 239, 240, 241, and 242].

120. “Pension Plans” means the Sherwin Alumina Company Retirement Plan for Salaried Employees or the Sherwin Alumina Company Pension Plan for Hourly Employees.

121. “Permitted Encumbrance” shall have the meaning set forth in the Purchase Agreement.

122. “Petition Date” means January 11, 2016.

123. “Plan” means this *Debtors’ Modified Joint Chapter 11 Plan*, including the Plan Supplement which is incorporated herein by reference and made part of this Plan as if set forth herein, as each may be modified, supplemented, or waived from time to time in accordance with the respective terms thereof.

124. “Plan Administrator” means the Entity identified in the Plan Supplement who shall, among other things, (a) make or facilitate distributions to Holders of Allowed Claims under the Plan, and (b) oversee the wind down, dissolution, and liquidation of the Debtors’ Estates after the Effective Date, including, without limitation, the sale of Excluded Inventory, if any.

125. “Plan Supplement” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, each in form and substance acceptable to the Debtors and the DIP Lender (unless otherwise noted), which shall consist of: (a) the Purchase Agreement; (b) the Schedule of Assumed Executory Contracts and Unexpired Leases; (c) Schedule of Rejected Executory Contracts and Unexpired Leases; (d) the identity, responsibilities (to the extent not set forth in the Plan), and compensation of the Copano Beds and Ranch Administrator; (e) the identity of the Plan Administrator and the compensation of the Plan Administrator; (f) the Main Facility Closure Plan and (g) the Retained Causes of Action.

126. “Prepetition Secured Credit Facility” means the revolving credit facility of up to the aggregate principal amount of \$95,000,000 (plus letter of credit availability and amounts guaranteed by affiliates of the Prepetition Secured Lender, the total aggregate amount of which shall not exceed \$14,200,000) provided by the Prepetition Secured Lender to the Debtors in accordance with the Prepetition Secured Credit Facility Documents.

127. “Prepetition Secured Credit Facility Agreement” means that certain Credit Agreement, dated as of July 1, 2009, as amended, modified, and restated from time to time in accordance with the terms thereof, between Sherwin Alumina, as borrower, and the Prepetition Secured Lender, as lender.



128. “Prepetition Secured Credit Facility Documents” means, collectively, the Prepetition Secured Credit Facility Agreement and all agreements, documents, notes, mortgages, security agreements, pledges, guarantees, instruments, amendments, and any other agreements delivered pursuant thereto or in connection therewith.

129. “Prepetition Secured Credit Facility Claims” means any and all Claims arising under or related to the Prepetition Secured Credit Facility and the Prepetition Secured Credit Facility Documents. For the avoidance of doubt, the Prepetition Secured Credit Facility Claims shall include the following Claims under the Prepetition Secured Credit Facility and the Prepetition Secured Credit Facility Documents: (a) the aggregate principal amount of \$95,000,000; (b) accrued but unpaid fees (including fees and expenses of counsel to the Prepetition Secured Lender) and interest as of the Auction; and (c) letters of credit and amounts guaranteed by Affiliates of the Prepetition Secured Lender pursuant to the Prepetition Secured Credit Facility Agreement.

130. “Prepetition Secured Lender” means Commodity Funding, LLC, in its capacity as lender under the Prepetition Secured Credit Facility Agreement.

131. “Priority Tax Claim” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

132. “Professional” means an Entity: (a) retained in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 363, and 331 of the Bankruptcy Code; or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

133. “Professional Fee Escrow Account” means an interest-bearing escrow account to hold and maintain an amount of Cash equal to the Professional Fee Escrow Amount in the manner described in Article II.B of the Plan, which account shall be established by the Debtors on or before the Effective Date and held in trust for the Professionals solely for the purpose of paying Allowed and unpaid Accrued Professional Compensation Claims.

134. “Professional Fee Escrow Amount” means the aggregate Accrued Professional Compensation Claims through the Confirmation Date, as estimated in accordance with Article II.B of this Plan. Solely for purposes of the Plan, the Professional Fee Escrow Amount with respect to Andrews Kurth LLP and Gavin Solmonese LLC shall be limited to each such Professional’s applicable share of the Committee Professionals Escrow Amount, and all rights regarding the respective Accrued Professional Compensation Claims of Andrews Kurth LLP and Gavin Solmonese LLC are fully reserved if the Plan is not Confirmed, the Effective Date does not occur, or the Global Settlement is not otherwise consummated.

135. “Proof of Claim” means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

136. “Proof of Interest” means a proof of Interest Filed against any of the Debtors in the Chapter 11 Cases.

137. “Purchase Agreement” means that certain asset purchase agreement dated as of April 18, 2016, by and among the Debtors and Corpus Christi Alumina LLC, as the same may be amended, modified, or supplemented from time to time in accordance with the terms thereof.

138. “Released Party” means each of: (a) Allied Alumina, LLC; (b) the Prepetition Secured Lender; (c) the DIP Lender; (d) the Committee; (e) the Buyer; (f) with respect to each of the foregoing entities in clauses (a) through (e), such Entity’s predecessors, successors and assigns, current and former Affiliates, subsidiaries, beneficial owners, current or former officers, directors, managers, principals, shareholders, direct and indirect equity holders, general partners, limited partners, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals, in each case in their capacity as such; and (g) the Debtors’ predecessors, successors and assigns, current and former Affiliates, subsidiaries, beneficial owners,

current or former officers, directors, managers, principals, shareholders, direct and indirect equity holders, general partners, limited partners, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such.

139. “Releasing Parties” means each of the following in its capacity as such: (a) Allied Alumina, LLC; (b) the DIP Lender; (c) the Prepetition Secured Lender; (d) the Committee; (e) the Buyer; (f) those Holders of Claims and Interests that are deemed to accept the Plan; (g) all Holders of Claims and Interests who vote to accept the Plan; (h) all Holders of Claims and Interests in voting classes who either abstain from voting on, or do not vote for, the Plan, and who in either case do not opt out of the releases provided by the Plan, *provided* that the Debtors and any such Holder may agree in writing to limit such Holder’s status as a Releasing Party to the Estate Released Parties; (i) with respect to each of the foregoing entities in clauses (a) through (h), such Entity’s predecessors, successors and assigns, current and former Affiliates, subsidiaries, beneficial owners, current or former officers, directors, managers, principals, shareholders, direct and indirect equity holders, general partners, limited partners, members, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such; and (j) the Debtors’ current and former Affiliates, subsidiaries, officers, directors, managers, principals, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such.

140. “Retained Causes of Action” means all claims and causes of action of the Debtors identified in the Plan Supplement.

141. “Restructuring Documents” means the Bid Procedures Order, the Plan, the Disclosure Statement, the Confirmation Order, the Plan Supplement, and the Purchase Agreement, and the various agreements and other documentation formalizing the Plan, which agreements and other documentation shall be in form and substance acceptable to the Debtors and DIP Lender in their reasonable discretion.

142. “Restructuring Transactions” means those mergers, amalgamations, consolidations, arrangements, continuances, restructurings, transfers, conversions, dispositions, liquidations, dissolutions, or other corporate transactions that the Debtors determine to be necessary or desirable to implement the terms of the Restructuring Documents.

143. “Reynolds” means Reynolds Metals Company, LLC, the original owner of the Main Facility and the Copano Property.

144. “Sale Proceeds” means the Cash proceeds of the Sale Transaction payable to the Debtors by the Buyer upon the closing under the Purchase Agreement.

145. “Sale Transaction” means transactions between the Debtors and the Buyer, as set forth in the Purchase Agreement.

146. “Schedule of Assumed Executory Contracts and Unexpired Leases” means the schedule of certain Executory Contracts and Unexpired Leases to be assumed or assumed and assigned by the Debtors pursuant to the Plan, as set forth in the Plan Supplement, subject to amendment by the Debtors and the Buyer from time to time in accordance with the Purchase Agreement.

147. “Schedule of Rejected Executory Contracts and Unexpired Leases” means the schedule of certain Executory Contracts and Unexpired Leases to be rejected by the Debtors pursuant to the Plan, as set forth in the Plan Supplement, subject to amendment by the Debtors and the Buyer from time to time in accordance with the Purchase Agreement.

148. “Schedules” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code.

149. “Secured” means when referring to a Claim: (a) secured by a Lien on property in which the applicable Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in such Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code and Bankruptcy Rule 3012, as applicable; or (b) Allowed pursuant to the Plan as a Secured Claim.

150. “Security” shall have the meaning set forth in section 101(49) of the Bankruptcy Code.

151. “Sherwin Alumina” means Sherwin Alumina Company, LLC, a Debtor in the Chapter 11 Cases.

152. “Sherwin Alumina Ranch” means that approximately 8,500-acre parcel of farmland located on the in San Patricio County, Texas and Aransas County, Texas historically known as the Taft Ranch.

153. “Sherwin Alumina Ranch Cattle” means the approximately 500 heads of cattle owned by the Debtors that are located at the Sherwin Alumina Ranch.

154. “Sherwin Pipeline” means Sherwin Pipeline, Inc., a Debtor in the Chapter 11 Cases.

155. “Subordinated Claim” means any Claim that is subject to subordination, including any Claims arising from rescission of a purchase or sale of a Security of any Debtor or an Affiliate of any Debtor, which Security is not an Interest, for damages arising from the purchase or sale of such a Security, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim; *provided* that the DIP Facility Subordinated Claim shall not constitute a Subordinated Claim for purposes of the Plan.

156. “Successful Bidder” means the Buyer.

157. “Surela Note” means, collectively, the notes and other instruments evidencing the obligations of Noranda under the Credit Agreement, dated December 29, 2012, between Sherwin, as assignee of Surela Investments Ltd., as Lender, and Noranda, as borrower.

158. “TCEQ” means the Texas Commission on Environmental Quality, the Texas state agency charged with enforcing environmental laws and regulations.

159. “TCEQ Claims” means Environmental Claims held by the TCEQ.

160. “Third Party Transaction” means a transaction under which a party other than the Debtors is directed by a court of competent jurisdiction or agrees to close the Copano Facility Disposal Beds or otherwise address the environmental liabilities at the Copano Facility Disposal Beds in accordance with applicable law.

161. “Union” means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC and its Local Union No. 235A.

162. “Union Closure Agreement” means the Closure Agreement, dated as of October 28, 2016, between Sherwin Alumina and the Union.

163. “Union Member” means any current or former employee of the Debtors: (a) whose terms and conditions of employment were determined by the Expired CBA in connection with his/her employment at the Main Facility; (b) is, or was, a member of the bargaining unit represented by the Union in connection with his/her employment at the Main Facility; and (c) who may assert an Expired CBA Claim as of the date immediately prior to the Effective Date.

164. “Union Settlement Escrow” means, solely to the extent that the Union votes for the Plan and the Plan is confirmed, the escrow to be established by the Debtors on the Effective Date and administered by the Plan

Administrator to hold Cash as contemplated by the Global Settlement GUC Distribution, for the benefit of the Union Members.

165. “U.S. Trustee” means the Office of the United States Trustee for the Southern District of Texas.

166. “Unexpired Lease” means a lease to which one or more of the Debtors is a party that is subject to assumption, assumption and assignment, or rejection under sections 365 or 1123 of the Bankruptcy Code.

167. “Unimpaired” means, with respect to a Class of Claims or Interests, a Claim or an Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

168. “United States” means the United States of America, its agencies, departments, or agents.

169. “Utility Deposit” means the adequate assurance deposits paid by the Debtors in compliance with the *Interim Order (I) Approving the Debtors’ Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, and (III) Approving the Debtors’ Proposed Procedures for Resolving Adequate Assurance Requests* [Docket No. 81] and the *Final Order (I) Approving the Debtors’ Proposed Adequate Assurance of Payment for Future Utility Services, (II) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Services, and (III) Approving the Debtors’ Proposed Procedures for Resolving Adequate Assurance Requests* [Docket No. 243].

170. “Valued Employees Program” shall have the meaning ascribed to it in the *Debtors’ Motion for Entry of an Order Authorizing and Approving Valued Employees Program* [Docket No. 672].

171. “Voting Record Date” means the close of business on November 22, 2016.

**B. Rules of Interpretation.**

For purposes of the Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns, including the Copano Beds and Ranch Administrator or the Plan Administrator, as applicable, as successor to Sherwin Alumina; (5) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (6) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (7) unless otherwise specified, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (8) subject to the provisions of any contract, certificate of incorporation, by-law, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (9) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (10) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the Plan; (11) any effectuating provisions may be interpreted by the Debtors in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, and such interpretation shall control; (12) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (13) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court’s CM/ECF system; (14) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise

stated; and (15) any immaterial effectuating provisions may be interpreted in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity. References in the Plan to the Debtors shall mean the Debtors or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date, as applicable.

*C. Computation of Time.*

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed in the Plan or Confirmation Order. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

*D. Governing Law.*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflict of laws (except for Sections 5-1401 and 5-1402 of the General Obligations Law of the State of New York), shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control); *provided* that corporate or limited liability company governance matters relating to the Debtors shall be governed by the laws of the state of incorporation or formation (as applicable) of the applicable Debtor.

*E. Reference to Monetary Figures.*

All references in the Plan to monetary figures shall refer to the legal tender of the United States, unless otherwise expressly provided.

*F. Controlling Document.*

Except as set forth in the Plan, or as otherwise agreed to by the Buyer and, as applicable, the Debtors, the Plan Administrator or the Copano Beds and Ranch Administrator, to the extent that any provision of any other Restructuring Document or any document or other exhibits, schedules, appendices, supplements, or amendments of any document referenced in the Plan conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control; *provided* that, with respect to any conflict or inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall govern, except as otherwise agreed to by the Buyer and the Debtors.

**ARTICLE II  
ADMINISTRATIVE CLAIMS, ACCRUED PROFESSIONAL FEE COMPENSATION CLAIMS, DIP  
CLAIMS, AND PRIORITY TAX CLAIMS**

*A. Administrative Claims.*

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim, on the one hand, and the Debtors, the Plan Administrator, the Copano Beds and Ranch Administrator, and the DIP Lender, as applicable, on the other hand, to the extent an Allowed Administrative Claim has not already been paid in full in cash during the Chapter 11 Cases, on the Administrative Claims Payment Date, each Holder of an Administrative Claim to the extent such Claim is Allowed will receive in exchange for full and final satisfaction, settlement, release, and compromise (subject to Article VIII of the Plan) of its Allowed Claim payment in full in Cash; *provided* that nothing herein shall be construed to increase the amount of the Global Settlement Priority Claims Funding Cap. The failure to object to confirmation of this Plan by a Holder of an Allowed Administrative Claim shall be deemed to be such Holder's agreement to receive treatment for such Claim that is different from that set forth in section 1129(a)(9) of the Bankruptcy Code.

**EXCEPT AS OTHERWISE PROVIDED BY A FINAL ORDER PREVIOUSLY ENTERED BY THE BANKRUPTCY COURT (INCLUDING THE FINAL DIP ORDER, FINAL CASH COLLATERAL ORDER, AND BID PROCEDURES ORDER), UNLESS PREVIOUSLY FILED, REQUESTS FOR PAYMENT OF ADMINISTRATIVE CLAIMS, MUST BE FILED AND SERVED ON THE DEBTORS, THE PLAN ADMINISTRATOR, THE COPANO BEDS AND RANCH ADMINISTRATOR, AND THE DIP LENDER NO LATER THAN THE ADMINISTRATIVE CLAIMS BAR DATE PURSUANT TO THE PROCEDURES SPECIFIED IN THE CONFIRMATION ORDER AND THE NOTICE OF THE EFFECTIVE DATE.**

**HOLDERS OF ADMINISTRATIVE CLAIMS THAT ARE REQUIRED TO FILE AND SERVE A REQUEST FOR PAYMENT OF SUCH ADMINISTRATIVE CLAIMS BY THE ADMINISTRATIVE CLAIMS BAR DATE THAT DO NOT FILE AND SERVE SUCH A REQUEST BY THE ADMINISTRATIVE CLAIMS BAR DATE SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS, THE DIP LENDER, THE BUYER, OR THEIR RESPECTIVE PROPERTY.**

*B. Accrued Professional Compensation Claims.*

1. **Professional Fee Escrow Account.**

Subject to and in accordance with the terms of the Final DIP Order (including the DIP Lender's obligation to fund the Carve-Out (as defined in the Final DIP Order)), the Debtors shall fund the Professional Fee Escrow Account on the Effective Date with the Debtors' Cash on hand in the amount of the aggregate Professional Fee Escrow Amount for all Professionals; *provided* that each Professional's respective share of the Professional Fee Escrow Account shall be reduced, on a dollar for dollar basis, by any unused retainer held by such Professional as of the Effective Date. Solely to the extent that the Debtors have insufficient Cash to fund the Professional Fee Escrow Account in accordance with Article II.B of this Plan, the DIP Lender, in its sole discretion, shall have the right to increase the Global Settlement Priority Claims Funding Amount. The Professional Fee Escrow Account shall be maintained in trust for the Professionals and the funds held in the Professional Fee Escrow Account shall not be considered property of the Debtors' Estates or any successor to the Debtors; *provided* that the DIP Lender shall have a reversionary interest in the excess, if any, of the amount of the Professional Fee Escrow Account over the aggregate Allowed Accrued Professional Compensation Claims to be paid from the Professional Fee Escrow Account. Notwithstanding anything to the contrary in this paragraph, the Accrued Professional Compensation Claims of Andrews Kurth LLP and Gavin Solmonese LLC shall be Allowed and paid in accordance with Article II.B.5 of the Plan.

2. **Final Fee Applications and Payment of Accrued Professional Compensation Claims.**

All final requests for payment of Claims of a Professional (other than Andrews Kurt LLP and Gavin Solmonese LLC, whose respective Accrued Professional Compensation Claims shall be Allowed and paid in accordance with Article II.B.5 of the Plan) shall be Filed no later than the first Business Day that is 30 days after the Confirmation Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Accrued Professional Compensation Claims shall be determined by the Bankruptcy Court. The amount of Accrued Professional Compensation Claims owing to the applicable Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account after such Claims are Allowed by a Final Order. After all Accrued Professional Compensation Claims have been paid in full, the Final Order allowing such Accrued Professional Compensation Claims shall direct the escrow agent to return any excess amounts to the DIP Lender.

3. **Professional Fee Escrow Amount.**

To receive payment for unbilled fees and expenses incurred through the Confirmation Date, the Professionals (other than Andrews Kurth LLP and Gavin Solmonese LLC, whose respective Accrued Professional Compensation Claims shall be Allowed and paid in accordance with Article II.B.5 of the Plan) shall estimate their Accrued Professional Compensation Claims before and as of the Confirmation Date and shall deliver such estimate to the Debtors and the DIP Lender no later than three (3) Business Days before the Confirmation Date; *provided* that



such estimate shall not be considered an admission with respect to the fees and expenses of such Professional and such Professionals are not bound to any extent by the estimates. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional; *provided, further*, that such estimate shall not be binding or considered an admission with respect to the fees and expenses of such Professional.

4. **Post-Confirmation Fees and Expenses.**

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable and documented legal, professional, or other fees and expenses related to implementation and Consummation of the Plan incurred by the Debtors; *provided* that each Entity seeking such payment shall promptly provide copies of its invoices to the DIP Lender, and the Bankruptcy Court shall have exclusive jurisdiction over any objections raised to the amount of the fees and expenses proposed to be paid, which objections may only be raised within fourteen (14) days after receipt thereof. In the event that within fourteen (14) days from receipt of such invoices, the DIP Lender raises an objection to a particular invoice, and the parties are unable to resolve any dispute regarding the fees and expenses included in such invoice, the Bankruptcy Court shall hear and determine such dispute. Upon the Confirmation Date, any requirement that Professionals and Ordinary Course Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code, the Interim Compensation Order, or the Ordinary Course Professionals Order, in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors may employ and, subject to the DIP Order, pay any Professional or Ordinary Course Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court. Furthermore, as of the date one day prior to the Effective Date, the obligation of any Ordinary Course Professional to file a fee application pursuant to the Ordinary Course Professionals Order shall be deemed waived, and, on the Effective Date, the Debtors, subject to the Final DIP Order, may pay any Ordinary Court Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

5. **Accrued Professional Compensation Claims of the Committee's Professionals.**

Notwithstanding anything contained in the Plan to contrary, if and only to the extent that the Plan and Global Settlement are consummated: (a) Andrews Kurth LLP, which has received \$645,000 to date on account of its services on behalf of the Committee, shall be deemed to have an additional outstanding Allowed Accrued Professional Compensation Claim of \$445,000; (b) Gavin Solmonese LLC, which has received \$175,000 to date on account of its services on behalf of the Committee, shall be deemed to have an additional outstanding Allowed Accrued Professional Compensation Claim of \$175,000; (c) such outstanding Allowed Accrued Professional Compensation Claims shall be paid by the Debtors on the Effective Date to Andrews Kurth LLP and Gavin Solmonese LLC, as applicable, unless and to the extent such Allowed Accrued Professional Compensation Claims have been paid before the Effective Date; and (d) Andrews Kurth LLP and Gavin Solmonese LLC shall each be relieved of any obligation to file any fee application or other pleading with the Bankruptcy Court regarding their respective Accrued Professional Compensation Claims.

C. *Final Cash Collateral Order.*

As of the Effective Date, any and all Claims on account of adequate protection obligations under the Final Cash Collateral Order (including any Adequate Protection Obligations and Adequate Protection Claims) outstanding as of the Effective Date shall be deemed waived, and the Holders thereof shall have waived any such Claims.

D. *DIP Claims.*

As of the Effective Date, the DIP Lender shall not be entitled to receive any recovery on account of the DIP Claims other than receipt of Excluded Inventory Proceeds (if any), and shall be entitled to take a tax loss equal to the amount of the DIP Claims outstanding but unpaid as of the Effective Date less the aggregate amount of Excluded Inventory Proceeds (if any); *provided* that the foregoing shall not affect, limit or otherwise impair the validity or priority of the DIP Facility Subordinated Claim or the DIP Facility Subordinated Lien.



*E. Priority Tax Claims.*

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

**ARTICLE III  
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

In accordance with section 1123(a)(1) of the Bankruptcy Code, DIP Claims, Administrative Claims, Accrued Professional Fee Compensation Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III of the Plan.

*A. Summary of Classification.*

A Claim or Interest is classified in a particular Class pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. Except as provided below, the Plan shall apply as a separate Plan for each of the Debtors. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

<b>Class</b>	<b>Claims and Interests</b>	<b>Status</b>	<b>Voting Rights</b>
Class 1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Presumed to Accept)
Class 3	Prepetition Secured Credit Facility Claims	Impaired	Entitled to Vote
Class 4A	General Unsecured Claims (Other than Expired CBA Claims, PBGC Claims, and TCEQ Claims)	Impaired	Entitled to Vote
Class 4B	General Unsecured Claims (Expired CBA Claims)	Impaired	Entitled to Vote
Class 4C	General Unsecured Claims (PBGC Claims)	Impaired	Entitled to Vote
Class 4D	General Unsecured Claims (TCEQ Claims)	Impaired	Entitled to Vote
Class 5	Intercompany Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 6	Subordinated Claims	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 7	Interests in Sherwin Alumina	Impaired	Not Entitled to Vote (Deemed to Reject)
Class 8	Interests in Sherwin Pipeline	Impaired	Not Entitled to Vote (Deemed to Reject)

B. *Treatment of Claims and Interests.*

The treatment provided to each Class relating to each of the Debtors for distribution purposes and voting rights are specified below.

1. **Class 1—Other Priority Claims.**

- (a) *Classification:* Class 1 consists of all Other Priority Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 1 Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 1 Claim, each such Holder shall receive payment in full in Cash on the Effective Date.
- (c) *Voting:* Class 1 is Unimpaired under the Plan. Holders of Claims in Class 1 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

2. **Class 2—Other Secured Claims.**

- (a) *Classification:* Class 2 consists of all Other Secured Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 2 Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 2 Claim, each such Holder shall receive, at the election of the Debtors and the DIP Lender, the following treatment:
  - (a) payment in full in Cash;
  - (b) reinstatement of such Claim; or
  - (c) any other treatment rendering such Claim Unimpaired for purposes of the Bankruptcy Code, including returning the collateral underlying such Claim to the Holder.
- (c) *Voting:* Class 2 is Unimpaired under the Plan. Holders of Claims in Class 2 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

3. **Class 3—Prepetition Secured Credit Facility Claims.**

- (a) *Classification:* Class 3 consists of all Prepetition Secured Credit Facility Claims (including any deficiency Claim on account of the Prepetition Secured Credit Facility Claims).
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 3 Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 3 Claim, each such Holder shall receive its pro rata share of:
  - (a) **If the Buyer Consummates the Sale Transaction:** if the Buyer consummates the Sale Transaction, the value of such credit bid; or

- (b) **If the Buyer Does Not Consummate the Sale Transaction:** if the Buyer does not consummate the Sale Transaction, all cash or other proceeds generation from the sale of the Debtors' assets until all Prepetition Secured Credit Facility Claims have been indefeasibly paid in full in Cash.
- (c) *Deficiency Claims:* Upon the occurrence of the Effective Date, and solely if the Global Settlement has been consummated, any deficiency claim on account of the Prepetition Secured Credit Facility Claims will be deemed waived, and any Holders thereof shall be deemed to have waived any such deficiency claims.
- (d) *Voting:* Class 3 is Impaired under the Plan. Holders of Allowed Claims in Class 3 are entitled to vote to accept or reject the Plan.

4. **Class 4A—General Unsecured Claims (Other Than Expired CBA Claims, PBGC Claims, and TCEQ Claims).**

- (a) *Classification:* Class 4A consists of all General Unsecured Claims other than Expired CBA Claims, PBGC Claims, and Environmental Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 4A General Unsecured Claim agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4A General Unsecured Claim, each such Holder shall receive the following treatment:
  - (a) **If Class 4A and Class 4B Votes to Accept the Plan:** its pro rata share of the Global Settlement GUC Distribution (such share equal to (1) the ratio of the amount of such Holder's Allowed Class 4A Claim divided by the sum of all Allowed Class 4A Claims and Allowed Class 4B Claims (2) multiplied by the amount of the Global Settlement GUC Distribution excluding the amount (if any) allocated for the benefit of the Union Settlement Escrow);
  - (b) **If Class 4A Rejects the Plan and Class 4B Votes to Accept the Plan:** all Class 4A General Unsecured Claims shall be cancelled without any distribution on account of such Claim on the Effective Date, at which time the full amount of the Global Settlement GUC Distribution (including the amount (if any) allocated for the benefit of the Union Settlement Escrow) shall be distributed to Holders of Allowed Class 4B Claims.
  - (c) **If Class 4A Rejects the Plan and Class 4B Votes to Reject the Plan:** all Class 4A General Unsecured Claims shall be cancelled without any distribution on account of such Claim on the Effective Date, at which time the full amount of the Global Settlement GUC Distribution (including the amount (if any) allocated for the benefit of the Union Settlement Escrow) shall revert to the DIP Lender.
- (c) *Voting:* Class 4A is Impaired under the Plan. Holders of Allowed Claims in Class 4A are entitled to vote to accept or reject the Plan.

5. **Class 4B—General Unsecured Claims (Expired CBA Claims).**

- (a) *Classification:* Class 4B consists of all Expired CBA Claims held by the Union on behalf the Union Members.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Class 4B General Unsecured Claim agrees to a less favorable treatment of its Allowed Claim, in full and

final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4B Claim, each Union Member shall receive the following treatment:

- (a) **If Class 4B and Class 4A Votes to Accept the Plan:** its pro rata share of the Global Settlement GUC Distribution (such share equal to (1) the ratio of the amount of such Union Member's Allowed Class 4B Claim divided by the sum of all Allowed Class 4A Claims and Allowed Class 4B Claims (2) multiplied by the amount of the Global Settlement GUC Distribution excluding the amount (if any) allocated for the benefit of the Union Settlement Escrow); *plus* its pro rata share of the amount (if any) allocated for the benefit of the Union Settlement Escrow;
- (b) **If Class 4B Rejects the Plan and Class 4A Votes to Accept the Plan:** all Class 4B General Unsecured Claims shall be cancelled without any distribution on account of such Claim on the Effective Date, at which time the full amount of the Global Settlement GUC Distribution (including the amount (if any) allocated for the benefit of the Union Settlement Escrow) shall be distributed to Holders of Allowed Class 4A Claims.
- (c) **If Class 4B Rejects the Plan and Class 4A Accepts the Plan:** all Class 4B General Unsecured Claims shall be cancelled without any distribution on account of such Claim on the Effective Date, at which time the full amount of the Global Settlement GUC Distribution (including the amount (if any) allocated for the benefit of the Union Settlement Escrow) revert to the DIP Lender.
- (c) *Voting:* Class 4B is Impaired under the Plan. Holders of Allowed Claims in Class 4B are entitled to vote to accept or reject the Plan.

6. **Class 4C—General Unsecured Claims (PBGC Claims).**

- (a) *Classification:* Class 4C consists of the PBGC Claims, all of which relate to the Pensions Plans.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Class 4C Claim, Glencore Ltd., an Affiliate of the Buyer, shall assume the Pension Plans upon the Effective Date.
- (c) *Voting:* Class 4C is Impaired under the Plan. Holders of Allowed Claims in Class 4C are entitled to vote to accept or reject the Plan. Upon the Effective Date, Class 4C shall be automatically deemed to have retroactively voted to accept the Plan as of the Voting Record Date without the requirement to file a ballot in favor of the Plan.

7. **Class 4D—General Unsecured Claims (TCEQ Claims).**

- (a) *Classification:* Class 4D consists of all Environmental Claims held by the TCEQ.
- (b) *Treatment:* Upon the Effective Date, all Allowed Class 4D Claims shall be subordinated to the claims of other general unsecured creditors.
- (c) *Voting:* Class 4D is Impaired under the Plan. Holders of Allowed Claims in Class 4D are entitled to vote to accept or reject the Plan.

8. **Class 5—Intercompany Claims.**

- (a) *Classification:* Class 5 consists of all Intercompany Claims.

- (b) *Treatment:* Class 5 Intercompany Claims shall be cancelled without any distribution on account of such Claims.
- (c) *Voting:* Class 5 is Impaired under the Plan. Holders of Claims in Class 5 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

9. **Class 6—Subordinated Claims.**

- (a) *Classification:* Class 6 consists of all Subordinated Claims.
- (b) *Treatment:* On the Effective Date, all Class 6 Subordinated Claims shall be cancelled without any distribution on account of such Claims.
- (c) *Voting:* Class 6 is Impaired under the Plan. Holders of Claims in Class 6 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

10. **Class 7—Interests in Sherwin Alumina.**

- (a) *Classification:* Class 7 consists of all Interests in Sherwin Alumina.
- (b) *Treatment:* On the Effective Date, all Class 7 Allowed Interests in Sherwin Alumina shall be deemed cancelled, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and there shall be no distribution on account of such Interests.
- (c) *Voting:* Class 7 is Impaired under the Plan. Holders of Interests in Class 7 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

11. **Class 8—Interests in Sherwin Pipeline.**

- (a) *Classification:* Class 8 consists of all Interests in Sherwin Pipeline.
- (b) *Treatment:* On the Effective Date, all Class 8 Allowed Interests in Sherwin Pipeline shall, unless transferred to the Buyer under the Purchase Agreement (in which case such Interests shall be treated in accordance with the terms of the Purchase Agreement, notwithstanding anything contained in the Plan, the Confirmation Order or any other order of the Bankruptcy Court), be deemed cancelled, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and there shall be no distribution on account of such Interests.
- (c) *Voting:* Class 8 is Impaired under the Plan. Holders of Interests in Class 8 are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

C. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors, the Buyer, the Prepetition Secured Lender, or the DIP Lender, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims. Unimpaired Claims shall remain Disputed Claims under the Plan until such claims are Allowed.

*D. Elimination of Vacant Classes.*

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

*E. Voting Classes; Presumed Acceptance by Non-Voting Classes.*

If a Class contains Claims eligible to vote and no Holders of Claims eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be presumed accepted by the Holders of such Claims in such Class.

*F. Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors, with the consent of the DIP Lender, such consent not to be unreasonably withheld or conditioned, reserve the right to re-classify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

*G. Controversies Regarding Impairment.*

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**ARTICLE IV  
MEANS FOR IMPLEMENTATION OF THE PLAN**

*A. Restructuring Transactions.*

Before, on, and after the Effective Date, the Debtors are authorized, without further order of the Bankruptcy Court, subject to the reasonable consent of the DIP Lender (through and including the Effective Date), to take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Restructuring Transactions under or in connection with the Plan, including: (1) the execution and delivery of all appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan, and that satisfy the requirements of applicable law and any other terms to which the applicable Entities may agree; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable Entities agree; (3) rejection or assumption, or assumption and assignment, as applicable, of Executory Contracts and Unexpired Leases; (4) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (5) subject to the occurrence of the Effective Date, the consummation of the transactions contemplated by the Purchase Agreement.

*B. Sale Transaction.*

On the Effective Date, the Debtors shall be authorized to consummate the Sale Transaction pursuant to the terms of the Purchase Agreement, the Plan, and the Confirmation Order. On and after the Effective Date, except as otherwise provided in the Plan or the Purchase Agreement, the Debtors, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, and the Buyer, as applicable, may operate their businesses and may use,

acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, nothing in the Confirmation Order or the Plan discharges, releases, precludes, or enjoins: (1) any liability to any Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising on or after the Effective Date; (3) any police power or regulatory liability to a Governmental Unit that any Entity would be subject to as the owner or operator of any property after the Effective Date; (4) the rights of any Governmental Unit with respect to the transfer or assignment of any license, permit, registration, authorization, or approval, in each case, to the extent provided under applicable law; and/or (5) any liability to a Governmental Unit on the part of any Entity other than the Debtors.

*C. Sources of Plan Consideration.*

All amounts necessary for the Debtors, the Buyer, the Plan Administrator, or the Copano Beds and Ranch Administrator, as applicable, to make payments or distributions pursuant hereto shall be obtained from the Cash of the Debtors (subject to the terms of the Purchase Agreement and the Final DIP Order), the DIP Facility, the Sale Proceeds, payments made directly by the Buyer on account of any Assumed Liabilities pursuant to the Purchase Agreement, the Global Settlement Reserve, the Environmental Claims Assets, and payments of Cure Amounts (if any) made by the Buyer pursuant to sections 365 or 1123 of the Bankruptcy Code. Unless otherwise agreed, distributions required by this Plan on account of Allowed Claims that are Assumed Liabilities shall be the sole responsibility of the Buyer to the extent such Claim is Allowed against the Debtors.

1. **Funding of the Global Settlement Reserve.**

On or before the Effective Date, the Debtors shall have funded the Global Settlement GUC Debtor Reserve to fund a portion of the Global Settlement GUC Distribution. On the Effective Date, the DIP Lender (or an Affiliate thereof in connection with the Sale Transaction) shall fund the Global Settlement GUC Funding Amount (to fund the remaining portion of the Global Settlement GUC Distribution) and the Global Settlement Priority Claims Funding Amount (if any), in each instance, solely as and to the extent provided for in the Plan. Thereafter, the Global Settlement Priority Claims Funding Amount (if any) shall be distributed in accordance with Articles II and III of the Plan, and the Global Settlement GUC Distribution shall be distributed in accordance with Article III of the Plan. Nothing herein shall be construed to increase the amount of the Global Settlement Priority Claims Funding Cap.

Notwithstanding anything contained in the Plan, (a) to the extent any portion of the Global Settlement GUC Debtor Reserve or the Global Settlement GUC Funding Amount remains after the Global Settlement GUC Distribution has been completed in accordance with the Plan, any such remaining Cash or other property shall be immediately transferred to the DIP Lender; and (b) to the extent any portion of the Global Settlement Priority Claims Funding Amount (if any) remains after all Administrative Claims (excluding Expired CBA Claims, PBGC Claims or Environmental Claims), Priority Tax Claims, Other Priority Claims (excluding Expired CBA Claims, PBGC Claims or Environmental Claims), and Other Secured Claims have been paid or other satisfied in accordance with the Plan, any such remaining Cash or other property shall be immediately transferred to the DIP Lender.

2. **Payment of Sale Proceeds by the Buyer.**

On the Effective Date, the Buyer (or an Affiliate thereof) shall pay to the Debtors the Sale Proceeds as and to the extent provided for in the Purchase Agreement. Thereafter, the Sale Proceeds shall be distributed in accordance with Articles II and III of the Plan.

3. **Assumed Liabilities.**

On the Effective Date, the Buyer (or an Affiliate thereof) shall make all payments (if any) on account of any Assumed Liabilities that are required to be paid pursuant to and in accordance with the Purchase Agreement and



the Plan and the Debtors shall not have any obligation to make any payment or other distribution on account of any Claims that are Assumed Liabilities.

4. **Payment of Cure Amounts.**

On the Effective Date, the Buyer (or an Affiliate thereof) shall pay all Cure Amounts that are required to be paid (if any) pursuant to and in accordance with sections 365 or 1123 of the Bankruptcy Code, the Purchase Agreement, and the Plan, as applicable. The Debtors shall not have any obligation to make any payment or other distribution on account of any Cure Amounts.

5. **Utility Deposits.**

On the Effective Date, the Utility Deposits shall be directly transferred to the DIP Lender, the Buyer, or an Affiliate thereof.

*D. Treatment of Environmental Liabilities*

1. **Selection of the Copano Beds and Ranch Administrator.**

On or before the Effective Date, the Copano Beds and Ranch Administrator shall be selected by the Debtors, subject to the consent of the DIP Lender, for the purposes of implementing the transactions contemplated herein. As of the Effective Date, the Copano Beds and Ranch Administrator shall succeed to all powers as would have been applicable to Sherwin Alumina's officers, directors, managers, and shareholders with respect to the treatment of the environmental liabilities herein. The Copano Beds and Ranch Administrator shall be compensated and reimbursed for reasonable and documented costs and out-of-pocket expenses as set forth in, and in accordance with, the terms set forth herein and the Plan Supplement.

Following the Effective Date and in the event of the resignation or removal, liquidation, dissolution, death, or incapacity of the Copano Beds and Ranch Administrator, the Plan Administrator, subject to the consent of the DIP Lender, shall designate another Entity to become the Copano Beds and Ranch Administrator and such Entity will become the successor Copano Beds and Ranch Administrator and, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of the predecessor Copano Beds and Ranch Administrator; *provided*, the TCEQ shall have consultation rights with respect to the selection of any successor Copano Beds and Ranch Administrator.

2. **Responsibilities of the Copano Beds and Ranch Administrator.**

As of the Effective Date, the responsibilities of the Copano Beds and Ranch Administrator in connection with the Copano Property shall include, but not necessarily be limited to, the following: (a) maintaining the Copano Disposal Facility including, but not limited to, maintaining dust suppression measures for the Copano Disposal Facility Beds and maintaining the dikes and sampling groundwater wells in a manner consistent with applicable Environmental Law; (b) taking steps necessary to effectuate the closure of Copano Disposal Facility Bed 1; (c) listing, selling, leasing, mortgaging, investing or otherwise disposing any portion of the Excluded Assets (including, without limitation, the Sherwin Alumina Ranch and the Sherwin Alumina Cattle), to fund the activities described in this paragraph; (d) pursuing the Copano Disposal Facility Beneficial Reuse Option; (e) developing one or more Copano Disposal Facility Closure Plans, in accordance with Article IV.D.5 and Article IV.D.6 of this Plan; (f) attending to post-closure care of the Copano Disposal Facility as applicable; and (g) taking all other actions that the Copano Beds and Ranch Administrator determines, in its reasonable discretion and after consulting with the TCEQ and the DIP Lender, to be necessary or appropriate to carry out its duties as set forth in the Plan and any related documentation filed with the Bankruptcy Court, subject in all respects to applicable Environmental Law. The Copano Beds and Ranch Administrator shall also be authorized, but not required, to evaluate or pursue a potential Third Party Transaction, engage in discussions with the relevant parties with respect to a potential Third Party Transaction and take all other actions that the Copano Beds and Ranch Administrator determines, in its reasonable discretion and after consulting with the TCEQ and the DIP Lender, to be necessary or appropriate in connection with such potential Third Party Transaction, subject in all respects to applicable Environmental Law.

The Copano Beds and Ranch Administrator shall provide the DIP Lender and the TCEQ with monthly updates regarding its activities including, without limitation, disbursements made from the Environmental Claims Assets.

Notwithstanding any provision of this Plan, and for the avoidance of doubt, the DIP Facility Subordinated Lien shall not prohibit the Copano Beds and Ranch Administrator from incurring debt in an amount not to exceed \$6,250,000, which debt may be secured by a lien on the Environmental Claims Assets that is senior to the DIP Facility Subordinated Lien.

3. **The Environmental Claims Assets.**

The Copano Beds and Ranch Administrator shall be entitled to use the Environmental Claims Assets to fund the matters described in this Article IV of the Plan; *provided*, notwithstanding anything in the Plan or any other document to the contrary, the Copano Beds and Ranch Administrator:

- (a) shall not be permitted, absent the prior written consent of the DIP Lender, to use, directly or indirectly, any Cash or other proceeds generated by the sale of the Excluded Assets in excess of the Excluded Assets Cap;
- (b) shall immediately transfer any and all such Cash or other proceeds in excess of the Excluded Assets Cap to the DIP Lender;
- (c) shall be entitled to use up to \$300,000 of any Cash or other proceeds generated by the sale of the Excluded Assets to pay its own fees and reasonable administrative costs incurred as the Copano Beds and Ranch Administrator; *provided*, that unless otherwise consented to in advance by the TCEQ, only \$50,000 of this amount shall be available to pay legal fees; and
- (d) shall be entitled to use the Environmental Claims Cash Amount for any purpose (including, without limitation, pay its own fees and reasonable administrative costs), as determined in the reasonable discretion of the Copano Beds and Ranch Administrator.

Without limiting the generality of the foregoing, the Copano Beds and Ranch Administrator shall be entitled to sell, lease, mortgage or otherwise dispose of any portion of the Environmental Claims Assets, in each case, subject to the consent of the DIP Lender.

To the extent the Copano Beds and Ranch Administrator is able to generate funds directly from any or all of the Copano Disposal Facility Beds (including, by way of example but not limitation, from the sale to a third party of the contents (the red mud) of any of the Copano Disposal Facility Beds) other than in connection with the Beneficial Reuse Option or a Third Party Transaction, those funds shall be segregated from all Cash or proceeds generated by the sale of any of the Excluded Assets and will be available solely to address remaining environmental issues and concerns at the Copano Disposal Facility, and such funds will not be considered to be proceeds in excess of the Excluded Assets Cap such that they would be transferred to the DIP Lender under other provisions of this Plan. For the avoidance of doubt, any Cash or other proceeds generated by the sale, lease, mortgage or other disposition of any of the other Excluded Assets (including, without limitation, the Sherwin Alumina Ranch and the Sherwin Alumina Cattle) shall be subject to the Excluded Assets Cap and shall be transferred to the DIP Lender, subject to and in accordance with the other provisions of this Plan.

Notwithstanding any provision of this Plan to the contrary and without determining whether the DIP Lender or any Affiliate thereof is liable for any remediation, cleanup, removal, closure, natural resources damages or other costs associated with the Copano Disposal Facility or the Main Facility, the full amount of Environmental Claims Assets contributed hereunder by the DIP Lender and its Affiliates (and expressly not including the Debtors) shall be deemed to have been expended for "response costs" under applicable Environmental Law in any subsequent litigation alleging that the DIP Lender or any Affiliate thereof is liable with respect to such remediation, cleanup, removal, closure, natural resource damages or other costs.

If and to the extent the Copano Beds and Ranch Administrator determines, in its reasonable discretion, that the Environmental Claims Assets or any portion thereof are no longer necessary to perform its duties under the Plan as the result of any change in circumstances at the Copano Disposal Facility (including, without limitation, the Copano Disposal Facility Beneficial Reuse Option is approved by the TCEQ or a Third Party Transaction occurs), then the Copano Beds and Ranch Administrator shall immediately transfer any and all such Environmental Claims Assets to the DIP Lender.

4. **The Main Facility Closure Plan.**

The Buyer shall conduct and fund environmental activities, including response or remedial actions, removal actions, corrective action, closure, post-closure care and restoration of or related to the Main Facility, in each case, as set forth in the Main Facility Closure Plan. For the avoidance of doubt, notwithstanding anything contained herein, the Buyer may sell or transfer any assets related to the Main Facility.

Notwithstanding any other provision of the Plan, nothing in this Plan shall alter or affect the TCEQ's statutory or regulatory authority with regard to the Main Facility to approve any Main Facility Closure Plan and to monitor the clean-up of the Main Facility and the remaining Excluded Assets located at the Main Facility (if any), in each respect, to the extent required under applicable Environmental Law.

5. **Copano Disposal Facility Closure Plan for Copano Disposal Facility Bed 1.**

On the 180-day anniversary of the Effective Date, if (x) the Copano Disposal Facility Beneficial Reuse Option has not been approved by TCEQ and (y) the Copano Beds and Ranch Administrator has determined that a Third Party Transaction is not viable, then unless otherwise directed in writing by the TCEQ, the Copano Beds and Ranch Administrator shall commence developing a Copano Disposal Facility Closure Plan for Copano Disposal Facility Bed 1 and shall promptly submit such Copano Disposal Facility Closure Plan to the TCEQ for written approval.

Notwithstanding any other provision of the Plan, nothing in this Plan shall alter or affect the TCEQ's statutory or regulatory authority with regard to Copano Disposal Facility Bed 1.

6. **Copano Disposal Facility Closure Plan(s) for Copano Disposal Facility Beds 2, 3 and 4.**

On the 180-day anniversary of the Effective Date, if (x) the Copano Disposal Facility Beneficial Reuse Option has not been approved by TCEQ and (y) the Copano Beds and Ranch Administrator has determined that a Third Party Transaction is not viable, then unless otherwise directed in writing by the TCEQ, the Copano Beds and Ranch Administrator shall commence developing one or more Copano Disposal Facility Closure Plans for the Copano Disposal Facility Beds 2, 3 and 4 and shall promptly submit such Copano Disposal Facility Closure Plan(s) to the TCEQ for written approval.

Notwithstanding any other provision of the Plan, nothing in this Plan shall alter or affect the TCEQ's statutory or regulatory authority with regard to the Copano Disposal Facility Beds 2, 3 and 4.

7. **The DIP Facility Subordinated Claim and DIP Facility Subordinated Lien.**

Upon the Effective Date, the DIP Lender shall be granted the DIP Facility Subordinated Claim, which shall be secured by the DIP Facility Subordinated Lien. Upon the Effective Date, the DIP Facility Subordinated Lien shall be deemed a fully perfected lien and security interest, effective and perfected without the necessity of execution by the Debtors of mortgages, security agreements, pledge agreements, financing agreements, financing statements or other agreements or instruments, such that no additional steps need be taken by the DIP Lender to perfect such lien and interest. Any provision of any lease, loan document, easement, use agreement, proffer, covenant, license, contract, organizational document, or other instrument or agreement that requires the consent or approval of one or more landlords, licensors or other parties in order for the Debtors to pledge, grant, mortgage, sell, assign, or otherwise transfer any fee or leasehold interest or the proceeds thereof or other Environmental Claims Assets, is and shall be deemed to be inconsistent with the provisions of the Bankruptcy Code, and shall have no

force or effect with respect to the transactions granting the DIP Lender the DIP Facility Subordinated Lien on such fee, leasehold or other interest or other Environmental Claims Assets or the proceeds of any assignment, sale or other transfer thereof. In the event the DIP Lender is entitled to foreclose on the DIP Facility Subordinated Lien, the DIP Lender shall be entitled to foreclose on all or any portion of the Excluded Assets.

Notwithstanding any provision of this Plan, and for the avoidance of doubt, the DIP Facility Subordinated Lien shall not prohibit the Copano Beds and Ranch Administrator from incurring debt in an amount not to exceed \$6,250,000, which debt may be secured by a lien on the Environmental Claims Assets that is senior to the DIP Facility Subordinated Lien.

8. **Reasonable Access to Files and Information.**

Prior to the Effective Date, the Debtors, and, after the Effective Date, the DIP Lender and the Buyer, will use commercially reasonable efforts to provide the Copano Beds and Ranch Administrator with reasonable access during normal business hours to all files and information (if any) related to the Excluded Assets, in each case, upon advance prior written notice (email shall suffice) to counsel to the Debtors, the DIP Lender, or the Buyer, as applicable. The Copano Beds and Ranch Administrator will reimburse each of the DIP Lender, the Buyer and their respective Affiliates for its reasonable and documented out-of-pocket expenses incurred in cooperating with the Copano Beds and Ranch Administrator in connection with the remediation of the Excluded Assets.

9. **Releases by and Contribution Protection from TCEQ.**

TCEQ does not oppose the release provided under Article VIII.D of the Plan of the four individuals identified as “Estate Released Parties” (i.e., Thomas Russell, Alan J. Carr, Kent Britton, and Cheryl Driscoll) or its status as a “Releasing Party” under paragraph 139 of the Plan solely with respect to such Estate Released Parties. Notwithstanding anything to the contrary in this Plan, the Disclosure Statement, or any related documents, TCEQ is not releasing any Entity from any environmental liability associated with the Debtors’ property (including the Main Facility and Copano Disposal Facility). Further, notwithstanding anything to the contrary in this Plan, the Disclosure Statement, or any related documents, TCEQ is not providing contribution protection to Debtors, the DIP Lender, or any other Entity under this Plan.

10. **Concurrent Jurisdiction.**

Notwithstanding any other provision of this Plan, the Bankruptcy Court shall have concurrent jurisdiction with any federal or Texas state court of competent jurisdiction to hear any dispute arising under this Plan or the Confirmation Order to the extent such dispute concerns the application of Environmental Law and the treatment of environmental liabilities under the Plan; *provided*, that the Bankruptcy Court shall retain exclusive jurisdiction to hear any other dispute concerning interpretation or implementation of this Plan or the Confirmation Order.

11. **Other Terms Regarding the Treatment of Environmental Claims.**

After the Effective Date, Sherwin Alumina shall remain in existence for the sole purpose of complying with its obligations under the Plan with respect to the treatment of Environmental Claims and shall then dissolve; *provided*, that notwithstanding any other provision of this Plan or the Confirmation Order, the date on which the Sherwin Alumina shall dissolve shall be the earlier of: (i) the date on which the Copano Disposal Facility is sold with TCEQ approval; (ii) the date on which the Copano Disposal Facility is closed in accordance with applicable Environmental Law; (iii) the date that is three years after the the Effective Date; (iv) with TCEQ approval, the date on which title to the Excluded Assets (including the Copano Property) is transferred to the Copano Beds and Ranch Administrator or an Entity controlled by the Copano Beds and Ranch Administrator to permit the Copano Beds and Ranch Administrator to implement the transactions contemplated by Article IV.D of the Plan; and (v) any other date approved by the TCEQ.

Subject to the terms of the preceding paragraph, as of the Effective Date, the Excluded Assets shall continue to be held in the name of the Debtors’ Estates but, subject to the terms of the Plan, be transferred to, and managed by, the Copano Beds and Ranch Administrator. The Excluded Assets shall, except with respect to the

treatment of Environmental Claims set forth in the Plan, be free and clear of any and all Claims (including any DIP Claims and any Liens on account of any DIP Claims) and Interests; *provided* that the Excluded Assets shall be subject to the DIP Facility Subordinated Claim and the DIP Facility Subordinated Lien.

*E. Vesting of Assets.*

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated herein, on the Effective Date: (a) the Acquired Assets shall be preserved and shall vest in the Buyer, free and clear of all Liens, Claims, charges, and other encumbrances other than the Permitted Encumbrances; and (b) the Excluded Assets shall be preserved and shall vest in the applicable Debtor, free and clear of all Liens, Claims, charges, and other encumbrances other than the Permitted Encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, the Debtors and the Copano Beds and Ranch Administrator, as applicable, may operate their businesses and use, acquire, or dispose of property and, as applicable, compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules. For the avoidance of doubt, the Buyer may operate its business and use, acquire, or dispose of property, including without limitation the Acquired Assets, without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

**EXCEPT WITH RESPECT TO ENVIRONMENTAL LIABILITIES AS PROVIDED FOR UNDER ARTICLE IV OF THE PLAN, FOR THE AVOIDANCE OF DOUBT, ON AND AFTER THE EFFECTIVE DATE, NEITHER THE BUYER NOR ANY OF ITS AFFILIATES SHALL BE DEEMED TO BE A SUCCESSOR TO, JOINT EMPLOYER WITH, ALTER EGO OR MERE CONTINUATION OF ANY DEBTOR FOR ANY PURPOSE UNDER THE BANKRUPTCY CODE OR APPLICABLE NON-BANKRUPTCY LAW, INCLUDING, WITHOUT LIMITATION, RESPONSIBILITY FOR ANY CLAIMS AGAINST ANY DEBTOR OR LIABILITIES, OBLIGATIONS AND/OR COMMITMENTS OF ANY DEBTOR UNDER THE EXPIRED CBA, ANY OTHER COLLECTIVE BARGAINING OR SIMILAR AGREEMENT WITH THE UNION, THE LOCKOUT OF UNION MEMBERS BY THE DEBTORS OR THE EMPLOYMENT OF ANY UNION MEMBERS BY THE DEBTORS (INCLUDING, FOR THE AVOIDANCE OF ANY DOUBT, ANY POST-EXPIRATION CONTINUING TERMS AND CONDITIONS OF EMPLOYMENT UNDER OR RELATED TO THE EXPIRED CBA ON OR AFTER SEPTEMBER 30, 2014, TO THE EXTENT PROVIDED BY APPLICABLE LAW). FOR THE AVOIDANCE OF DOUBT, NO PROVISION OF THIS PLAN OR ANY ORDER OF THIS BANKRUPTCY COURT RELIEVES THE DEBTORS OR ANY OTHER PERSONS OR ENTITIES THAT ARE MEMBERS OF DEBTORS' CONTROLLED GROUP, AS DEFINED IN 29 U.S.C. § 1301(A)(13) (THE "CONTROLLED GROUP"), FROM THE OBLIGATION TO COMPLY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), AND THE RULES, REGULATIONS AND ORDERS PROMULGATED THEREUNDER BY THE PBGC.**

*F. General Settlement of Claims.*

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, and controversies resolved pursuant to the Plan.

*G. Committee Claim Objection and Committee Complaint.*

On the Effective Date, if the DIP Lender (or an Affiliate thereof) funds its applicable portion of the Global Settlement Reserve, the relief requested by the Committee Claim Objection and the Committee Complaint shall be moot, and the Committee Claim Objection and Committee Complaint shall be withdrawn with prejudice.

*H. Cancellation of Securities and Agreements.*

On the Effective Date, except to the extent otherwise provided in the Plan or the Purchase Agreement, all notes, instruments, Certificates, and other documents evidencing, or in any way related to, Claims or Interests shall



be canceled and the obligations of the Debtors thereunder or in any way related thereto shall be released, settled, and compromised; *provided* that the survival of any rights or notes, instruments, Certificates, and other documents evidencing Claims or Interests shall not give rise to any Claims against any Entity (including the Debtors) or any Entity's officers, managers, directors, representatives, and agents for fees, expenses, or otherwise.

*I. Corporate Action.*

Upon the Effective Date and without limiting any rights and remedies of the Debtors under this Plan or applicable law, the Buyer shall be entitled to structure the restructuring consummated pursuant to the Plan as a purchase of all of the Debtors' assets, which purchase may be structured as a taxable transaction for United States federal income tax purposes and shall be deemed consummated on the Effective Date. Upon the Effective Date, all actions contemplated by the Plan and Purchase Agreement shall be deemed authorized and approved in all respects, including the implementation of the Restructuring Transactions. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by the Debtors in connection with the Plan or Purchase Agreement shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Security holders, directors, members, trustees, officers, or managers of the Debtors or any further notice to or action, order, or approval of the Bankruptcy Court. On or (as applicable) before the Effective Date, the appropriate officers of the Debtors shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan or Purchase Agreement (or necessary or desirable to effect the transactions contemplated by the Plan or Purchase Agreement) in the name of and on behalf of the Debtors, including any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by Article IV.I of the Plan shall be effective notwithstanding any requirements under non-bankruptcy law.

*J. Dissolution and Board of the Debtors.*

As of the Effective Date, the existing board of directors or managers, as applicable, of the Debtors shall be dissolved without any further action required on the part of the Debtors or the Debtors' officers, directors, managers, shareholders, or members, and any remaining officers, directors, managers, or managing members of any Debtor shall be dismissed without any further action required on the part of any such Debtor, the equity holders of the Debtors, the officers, directors, or managers, as applicable, of the Debtors, or the members of any Debtor. Subject in all respects to the terms of this Plan, Sherwin Alumina shall be dissolved as soon as practicable on or after the Effective Date, but in no event later than the closing of the Chapter 11 Cases.

As of the Effective Date, the Plan Administrator shall act as Sherwin Alumina's sole officer, director, and manager, as applicable, with respect to Sherwin Alumina's affairs other than matters substantially related to the transactions described in Article IV.D of the Plan. Subject in all respects to the terms of this Plan, the Plan Administrator shall, in consultation with the DIP Lender and the Buyer, have the power and authority to take any action necessary to wind down and dissolve Sherwin Alumina, and shall: (a) file for Sherwin Alumina, a certificate of dissolution, together with all other necessary corporate and company documents, to effect the dissolution of Sherwin Alumina under the applicable laws of its state of formation; and (b) complete and file all final or otherwise required federal, state, and local tax returns and shall pay taxes required to be paid for Sherwin Alumina, and pursuant to section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of Sherwin Alumina or its Estate for any tax incurred during the administration of such Sherwin Alumina's Chapter 11 Case, as determined under applicable tax laws.

The filing by the Plan Administrator of Sherwin Alumina's certificate of dissolution shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, board of directors, or board of managers of Sherwin Alumina.

*K. Effectuating Documents; Further Transactions.*

On and after the Effective Date, the Debtors and their respective directors, members, trustees, officers, and managers are, subject to the consent of the DIP Lender, which consent shall not be unreasonably withheld, authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement,



and further evidence the terms and conditions of the Plan in the name of and on behalf of the Debtors, without the need for any approvals, authorizations, or consents, except for those expressly required pursuant to the Plan, or any further notice to or action, order, or approval of the Bankruptcy Court.

*L. Exemption from Certain Taxes and Fees.*

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Such exemption specifically applies to: (1) the creation of any mortgage, deed of trust, Lien, or other security interest; (2) the making or assignment of any lease or sublease; (3) any Restructuring Transaction; and/or (4) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation, or dissolution; (c) deeds; (d) bills of sale; and/or (e) assignments executed in connection with any Restructuring Transaction occurring under the Plan.

*M. D&O Insurance Policies.<sup>2</sup>*

As of the Effective Date, Glencore Ltd. or an Affiliate thereof shall, for the two-year period commencing on the Effective Date: (1) cause the Debtors' current and former officers, directors, trustees, and members to remain as insured parties under the Debtors' D&O Liability Insurance Policies; and (b) to the extent that the Debtors' current and former officers, directors, trustees, and members are no longer subject to such D&O Liability Insurance Policies after such D&O Liability Insurance Policies expire in accordance with the terms thereof following the Effective Date, indemnify and hold harmless, and otherwise reimburse any costs, expenses, and liabilities incurred by, the Debtors' current and former officers, directors, trustees, and members, in each case, in their respective capacities as such. After the Effective Date, none of the Debtors, the Plan Administrator, the Copano Beds and Ranch Administrator, or the Buyer, as applicable, shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies in effect on the Effective Date, with respect to conduct occurring prior thereto, and all officers, directors, trustees, managers, and members of the Debtors who served in such capacity at any time before the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such officers, directors, trustees, or members remain in such positions after the Effective Date.

*N. Certain PBGC Matters.*

Upon the Effective Date, Glencore Ltd., an Affiliate of the Buyer, shall assume the Pension Plans.

*O. Treatment of Causes of Action.*

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, settled, assigned, and/or otherwise conveyed in the Plan or a Bankruptcy Court order, the Debtors reserve, and assign to the Buyer, any and all Causes of Action, whether arising before or after the Petition Date, and preserve, and assign to the Buyer, the right to commence, prosecute, or settle such Causes of Action, notwithstanding the occurrence of the Effective Date. The Buyer may pursue such Causes of Action in its sole discretion. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Buyer will not pursue any and all available Causes of Action against them. No preclusion doctrine, including the doctrines of *res judicata*,

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<sup>2</sup> The policy documents for the Debtors' D&O Liability Insurance Policies provide that the current term will expire as of May 2, 2017.

collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

*P. Noranda.*

All Claims asserted by Noranda and all disputes between the Debtors and Noranda, including, without limitation, on account of the parties' respective obligations under the Bauxite Sales Agreement, dated as of December 29, 2012, and the Bankruptcy Court's order approving *Agreed Stipulation and Order Between Sherwin Alumina Company, LLC and Noranda Bauxite Limited* [Docket No. 584], shall be resolved as set forth in the Noranda Settlement Order.

#### **ARTICLE V TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

*A. Assumption and Rejection of Executory Contracts and Unexpired Leases.*

On the Effective Date, except as otherwise provided herein, all Executory Contracts or Unexpired Leases will be deemed rejected in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than: (1) those that are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases, which schedule can be modified by the Debtors with the consent of the Buyer in accordance with and to the extent provided in the Purchase Agreement; (2) those that have been previously assumed, assumed and assigned, or rejected by a Final Order; (3) those that are the subject of a motion to assume, assume and assign, or reject Executory Contracts or Unexpired Leases that is pending on the Confirmation Date; (4) those that are subject to a motion to assume, assume and assign, or reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such assumption, assumption and assignment, or rejection is after the Effective Date; (5) those Executory Contracts and Unexpired Leases that expired pursuant to the terms thereof before the Petition Date (including the Expired CBA, which expired in accordance with its terms as of October 11, 2014); or (6) those Executory Contracts and Unexpired Leases that are Assigned Contracts under the Purchase Agreement; *provided*, notwithstanding the foregoing, any other provision of the Plan or any document related thereto, the Debtors may until the date that is thirty (30) Business Days after the Effective Date, subject to the consent of the Buyer and by written notice to the applicable counterparty and the Plan Administrator, assume and assign any Executory Contract or Unexpired Lease that is deemed rejected upon the Effective Date.

Notwithstanding anything contained herein, the Buyer may until the date that is two (2) Business Days prior to the Closing Date (as defined in the Purchase Agreement), by written notice to the Debtors, (i) elect to exclude from Schedule 2.06(a) to the Purchase Agreement any one or more of the Designated Contracts (as defined in the Purchase Agreement) that would otherwise be Assigned Contracts, which shall thereafter be deemed to be Excluded Contracts (as defined in the Purchase Agreement) and set forth on Schedule 2.03(d) to the Purchase Agreement and (ii) elect to designate any Designated Contracts which has not been previously rejected by the Debtors to be an Assigned Contract, which shall thereafter be deemed to be Assigned Contracts and set forth on Schedule 2.06(a) to the Purchase Agreement; *provided* that if the Cure Amount with respect to any Designated Contract is not acceptable to the Buyer in its sole discretion, then Buyer shall be entitled, until two Business Days prior to the Closing Date, to exclude such Designated Contract from Schedule 2.06(a) to the Purchase Agreement, which shall thereafter be deemed to be an Excluded Contract and set forth on Schedule 2.03(d) to the Purchase Agreement.

Entry of the Confirmation Order shall constitute a Court order approving the assumptions, assumptions and assignments, or rejections of such Executory Contracts or Unexpired Leases as provided under the Purchase Agreement, Plan or the Schedule of Assumed Executory Contracts and Unexpired Leases, pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan or Purchase Agreement are effective as of the Effective Date. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by a Final Order of the Bankruptcy Court on or after the Effective Date.

*B. Claims Based on Rejection of Executory Contracts or Unexpired Leases.*

Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, if any, must be Filed with the Bankruptcy Court within 30 days after the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection. Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed within such time shall be automatically Disallowed, forever barred from assertion, and shall not be enforceable against, as applicable, the Debtors, their Estates, the Plan Administrator, the Copano Beds and Ranch Administrator, the Buyer, the DIP Lender, and/or the Prepetition Secured Lender or property of the foregoing parties, without the need for any objection by the Debtors, the Plan Administrator, the Copano Beds and Ranch Administrator, the Buyer, the DIP Lender, and/or the Prepetition Secured Lender and without the need for any further notice to, or action, order, or approval of the Bankruptcy Court. Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims (Class 4A) and shall be treated in accordance with Article III of the Plan, as applicable.

*C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.*

Any monetary defaults under an Executory Contract and Unexpired Lease, as reflected on the Cure Notice shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Amount in Cash on the Effective Date, subject to the limitations described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the Cure Amount, (2) the ability of the Buyer or any assignee, to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption.

In any case, if the Bankruptcy Court determines that the Allowed Cure Amount with respect to any Executory Contract or Unexpired Lease is greater than the amount set forth in the applicable Cure Notice, the Buyer will have the right to remove such Executory Contract or Unexpired Lease from the Schedule of Assumed Executory Contracts and Unexpired Leases, in which case such Executory Contract or Unexpired Lease will be deemed rejected as the Effective Date.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the date that the Debtors assume such Executory Contract or Unexpired Lease. Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed Disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.

*D. Insurance Policies.*

On the Effective Date, the Debtors shall be deemed to have assumed or assumed and assigned to the Buyer, as applicable, all insurance policies and any agreements, documents, and instruments related thereto (solely to the extent that any such insurance policies and any agreements, documents, and instruments related thereto constitute Executory Contracts under the Plan).

*E. Letters of Credit.*

The Plan shall provide for the cancellation of all of the Debtors' letters of credit upon the Effective Date.

*F. Modifications, Amendments, Supplements, Restatements, or Other Agreements.*

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect

such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

*G. Reservation of Rights.*

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contracts and Unexpired Leases, nor anything contained in the Plan or Purchase Agreement, shall constitute an admission by the Debtors or any other Entity, as applicable, that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that either any Debtor or any other Entity, as applicable, has any liability thereunder.

*H. GPP.*

Nothing contained in the Plan or any order of the Bankruptcy Court authorizing the Debtors to reject the Energy Services Agreement entered prior to the Effective Date, or any actions taken pursuant to the Plan or such order (if any), shall be intended or should be construed as: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the right of any party (including, without limitation, the Debtors, GPP, Reynolds, the DIP Lender, the Prepetition Secured Lender, or the Buyer or their respective Affiliates) to dispute any Claim on any grounds; (c) a promise or requirement to pay any Claim; (d) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (e) a waiver of the rights of any party (including, without limitation, the Debtors, GPP, Reynolds, the DIP Lender, the Prepetition Secured Lender, or the Buyer or their respective Affiliates) under the Bankruptcy Code or any other applicable law, including, without limitation, section 365(h) of the Bankruptcy Code.

*I. Nonoccurrence of Effective Date.*

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code.

**ARTICLE VI  
PROVISIONS GOVERNING DISTRIBUTIONS<sup>3</sup>**

*A. Timing and Calculation of Amounts to Be Distributed.*

Except as otherwise provided in the Plan, on the Effective Date (or if a Claim or Interest is not an Allowed Claim or Allowed Interest on the Effective Date, on the date that such a Claim or Interest becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Allowed Interest against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests in the applicable Class from the Plan Administrator, on behalf of the Debtors, as applicable; *provided* that the Plan Administrator will use reasonable commercial efforts to make distributions to Holders of General Unsecured Claims that are Allowed as of the Effective Date within 30 days of the Effective Date. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next

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<sup>3</sup> Except as otherwise expressly provided in Article VI of the Plan, any reference to “Claims” shall not include any “Environmental Claims,” which Claims shall be treated as set forth in Article IV of the Plan.

succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims or Disputed Interests, distributions on account of any such Disputed Claims or Disputed Interests shall be made pursuant to the provisions set forth in Article VII of the Plan. Except as otherwise provided in the Plan, Holders of Claims or Interests shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date. Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim or Allowed Interest shall, on account of such Allowed Claim or Allowed Interest, receive a distribution in excess of the Allowed amount of such Claim or Interest plus any postpetition interest on such Claim or Interest payable in accordance with the Plan.

*B. Rights and Powers of the Plan Administrator.*

1. **Powers of the Plan Administrator.**

All distributions under the Plan shall be made by the Plan Administrator. The Plan Administrator shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. Additionally, in the event that the Plan Administrator is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Plan Administrator.

Subject to the terms of the Plan, the Plan Administrator shall be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated under the Plan; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Plan Administrator by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Plan Administrator to be necessary and proper to implement the provisions of the Plan.

2. **Fees of Plan Administrator and Expenses Incurred On or After the Effective Date.**

Without any further notice to or action, order, or approval of the Bankruptcy Court, the Plan Administrator shall receive a fee of not less than \$40,000, payable in Cash on a monthly basis by the DIP Lender or an Affiliate thereof not later than the first business day of each month following the Effective Date, or as otherwise agreed by the Plan Administrator and the DIP Lender in their respective sole discretion.

After the Effective Date, the DIP Lender or an Affiliate thereof will provide funding to reimburse the Plan Administrator for its reasonable and documented out-of-pocket costs and expenses in accordance with a budget that is acceptable to the Plan Administrator and the DIP Lender in their respective sole discretion. Such funding and payment shall be authorized without any further notice to or action, order, or approval of the Bankruptcy Court.

*C. Delivery of Distributions and Undeliverable or Unclaimed Distributions.*

1. **Record Date for Distribution.**

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

2. **Delivery of Distributions in General.**

Except as otherwise provided herein, the Plan Administrator shall make distributions to Holders of Allowed Claims and Allowed Interests as of the Distribution Record Date at the address for each such Holder as indicated on the Debtors' records as of the date of any such distribution; *provided* that the manner of such distributions shall be determined at the discretion of the Plan Administrator; *provided, further*, that the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder. If a Holder holds more than one Claim in any one Class, all Claims of the Holder will be aggregated into one Claim and one distribution will be made with respect to the aggregated Claim.

3. **Minimum; De Minimis Distributions.**

No Cash payment of less than \$250.00, in the reasonable discretion of the Plan Administrator (in consultation with the DIP Lender) shall be made to a Holder of an Allowed Claim or Allowed Interest on account of such Allowed Claim or Allowed Interest.

4. **Undeliverable Distributions and Unclaimed Property.**

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Plan Administrator has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided* that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the date the distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Plan Administrator, automatically and without need for a further order by the Bankruptcy Court and the Claim of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

5. **Manner of Payment Pursuant to the Plan.**

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Plan Administrator by check or by wire transfer, at the sole and exclusive discretion of the Plan Administrator.

*D. Compliance with Tax Requirements/Allocations.*

In connection with the Plan, to the extent applicable, the Plan Administrator shall request distributees to provide appropriate documentation that may be required for an exemption from withholding or reporting, and shall comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements unless an exception applies. Notwithstanding any provision in the Plan to the contrary, the Plan Administrator shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms it believes is reasonable and appropriate. The Plan Administrator, in consultation with the DIP Lender, reserves the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

*E. Claims Paid or Payable by Third Parties.*

1. **Claims Paid by Third Parties.**

The Plan Administrator shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor on account of such Claim, such Holder shall, within 14 days of receipt thereof, repay or return the distribution to the Plan Administrator to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the Plan Administrator annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.



2. **Claims Payable by Third Parties.**

No distributions under the Plan shall be made on account of a Claim that is payable by a third party (including by an Entity that is jointly and severally liable on such Claim and/or by one or more of the Debtors' insurers pursuant to one of the Debtors' insurance policies) until the Holder of such Claim has exhausted all rights and remedies with respect to such third party (including adjudicating any liability of any Entity that is jointly and severally liable on such Claim and/or adjudicating its rights under any applicable insurance policy). To the extent that any third party (including one or more of the Debtors' insurers) agrees to satisfy in full or in part a Claim or such Claim is adjudicated by the Bankruptcy Court or another court of competent jurisdiction, the applicable portion of such Claim shall be automatically expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court. Without prejudice to any Entity with respect to any other Claim against the Debtors, the Claim of GPP (excluding any Claim of GPP on account of its rights, if any, under section 365(h) of the Bankruptcy Code) resulting from the Debtors' rejection of the Energy Services Agreement as of September 29, 2016, shall constitute a Class 4A General Unsecured Claim, which Claim shall be Allowed in the amount of zero dollars pending entry of a Final Order of the Bankruptcy Court resolving the adversary proceeding pending under the caption *Gregory Power Partners, LLC v. Reynolds Metals Company (In re Sherwin Alumina Company, LLC)*, Adv. Pro. Case No. 16-02015 (Bankr. S.D. Tex.) (DRJ).

3. **Applicability of Insurance Policies.**

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

F. *Indefeasible Distributions.*

Except as provided in Article VI(E)(1), any and all distributions made under the Plan shall be indefeasible and not subject to clawback.

**ARTICLE VII  
PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED, AND DISPUTED CLAIMS<sup>4</sup>**

A. *Allowance of Claims.*

After the Effective Date, the Plan Administrator and, to the extent that any Claim or Interest constitutes an Acquired Asset, the Buyer shall have and retain any and all rights and defenses that the applicable Debtor had with respect to any Claim or any Interest immediately before the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Cases before the Effective Date (including the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order (when it becomes a Final Order), in the Chapter 11 Cases allowing such Claim.

B. *Claims Administration Responsibilities.*

Except as otherwise specifically provided in the Plan or the Purchase Agreement, after the Effective Date, the Plan Administrator or the Buyer, as applicable, shall have the sole authority: (1) to File, withdraw, or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim or Disputed Interest without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust

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<sup>4</sup> Except as otherwise expressly provided in Article VII of the Plan, any reference to "Claims" shall not include any "Environmental Claims," which Claims shall be treated as set forth in Article IV of the Plan.

the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

*C. Estimation of Claims and Interests.*

As of the Effective Date, the Plan Administrator or the Buyer, as applicable, may (but is not required to), at any time, request that the Bankruptcy Court estimate any Claim pursuant to applicable law, including pursuant to section 502(c) of the Bankruptcy Code and/or Bankruptcy Rule 3012, for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any such Claim, including during the litigation of any objection to any Claim or during the pendency of any appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions) and may be used as evidence in any supplemental proceedings, and the Plan Administrator or the Buyer, as applicable, may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before seven (7) days after the date on which such Claim is estimated. Each of the foregoing Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

*D. Adjustment to Claims or Interests without Objection.*

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Plan Administrator without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

*E. Disallowance of Claims.*

Any Claims or Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims or Interests may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Buyer.

**Except as provided herein or otherwise agreed, any and all Proofs of Claim filed after the Claims Bar Date shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely filed by a Final Order.**

*F. Treatment of Other Secured Claims.*

As of the Effective Date, entry of the Confirmation Order shall constitute a Court order pursuant to Bankruptcy Rule 3012 that, to the extent that any Claim (other than any DIP Claim and/or Prepetition Secured Credit Facility Claim) is purportedly Secured by a Lien on any of the Debtors' assets, such Claim shall be deemed a General Unsecured Claim, and shall only be Allowed as a General Unsecured Claim in an amount equal to the portion of such Claim that is not Disputed.

*G. Disputed Claims Reserve.*

On or before the Effective Date, the Debtors shall deposit in the Disputed Claims Reserve the Disputed Claims Reserve Amount. For the avoidance of doubt, there shall be no reserve required for Claims against the Debtors to the extent such Claims are Assumed Liabilities or are released, discharged, or otherwise extinguished pursuant to the Plan, nor shall there be any reserves, holdbacks, escrows, or indemnities arising from the Purchase Agreement or otherwise relating to the Sale Transaction. The Plan Administrator shall administer the Disputed Claims Reserve and shall distribute amounts held in the Disputed Claims Reserve (net of any expenses, including any taxes relating thereto), as provided herein, as such Disputed Claims are resolved by a Final Order or agreed to by settlement, and such amounts will be distributable on account of such Disputed Claims as such amounts would have been distributable had such Disputed Claims been Allowed Claims as of the Effective Date.

*H. Amendments to Claims.*

On or after the Effective Date, except as provided in the Plan or the Confirmation Order, a Claim or Interest may not be Filed or amended without the prior authorization of the Debtors, the DIP Lender, or the Plan Administrator, as applicable, and any such new or amended Claim or Interest Filed shall be deemed disallowed in full and expunged without any further action.

*I. No Distributions Pending Allowance.*

If an objection to a Claim or Interest or portion thereof is Filed as set forth in Article VII of the Plan, or if such Claim or Interest is scheduled as Disputed, no payment or distribution provided under the Plan shall be made on account of such Claim or Interest or portion thereof unless and until such Disputed Claim or Disputed Interest becomes an Allowed Claim or Allowed Interest.

*J. Distributions After Allowance.*

To the extent that a Disputed Claim or Disputed Interest ultimately becomes an Allowed Claim or Allowed Interest, distributions (if any) shall be made to the Holder of such Allowed Claim or Allowed Interest in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim or Disputed Interest becomes a Final Order, the Buyer or the Plan Administrator, as applicable, shall provide to the Holder of such Claim or Interest the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, less any previous distribution (if any) that was made on account of the undisputed portion of such Claim or Interest, without any interest, dividends, or accruals to be paid on account of such Claim or Interest unless required under applicable bankruptcy law or as otherwise provided in Article III.B of the Plan.

**ARTICLE VIII  
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

*A. Settlement, Compromise, and Release of Claims and Interests.*

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, and except as otherwise specifically provided in the Plan, including Article IV.D.9, or in any contract, instrument, or other agreement or document created pursuant to or in connection with the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete settlement, compromise, and release, effective as of the Effective Date, of Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Debtors), Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtors before the Effective Date and that arise from a termination of employment, any contingent

or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtors or their Affiliates with respect to any Claim or Interest that existed immediately before or on account of the Filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. For the avoidance of doubt, subject to the occurrence of the Effective Date, the Confirmation Order shall be a judicial determination that the Estates have waived any Claims related to the subject matter of the Committee Claim Objection and the Committee Complaint (including any Avoidance Action, Claim, or other Cause of Action (including with respect to recharacterization of the Prepetition Secured Credit Facility) against the Prepetition Secured Lender and its predecessors, successors and assigns, current and former Affiliates, subsidiaries, beneficial owners, current or former officers, directors, managers, principals, shareholders, direct and indirect equity holders, general partners, limited partners, employees, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, in each case in their capacity as such). Subject to the occurrence of the Effective Date, the Confirmation Order shall be a judicial determination of the settlement, compromise, and release of all Claims and Interests against and in the Debtors (unless such Interests are transferred to the Buyer under the Purchase Agreement, in which case such Interests shall be treated in accordance with the terms of the Purchase Agreement, notwithstanding anything contained in the Plan, the Confirmation Order or any other order of the Bankruptcy Court).

*B. Release of Liens.*

**Except as otherwise provided herein or in any contract, instrument, release, or other agreement or document created pursuant to or in connection with the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date or as otherwise treated in accordance with the Plan, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised, and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Debtors and be assigned to the Buyer subject to and in accordance with the terms of the Purchase Agreement.**

*C. Releases by the Debtors.*

Pursuant to section 1123(b) of the Bankruptcy Code and to the fullest extent authorized by applicable law, and except as otherwise specifically provided in the Plan, for good and valuable consideration, on and after the Effective Date, each Released Party is expressly, unconditionally, generally and individually and collectively released, acquitted and discharged by the Debtors and their Estates from any and all actions, claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims or claims for recharacterization, subordination, or avoidance of the Prepetition Secured Credit Facility Claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the Sale Transaction, the Restructuring Transactions, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date.

*D. Releases by Holders of Claims and Interests.*

As of the Effective Date, except as otherwise provided in the Plan including Article IV.D.9, and to the fullest extent authorized by applicable law, the Releasing Parties shall be deemed to expressly, unconditionally, generally and individually and collectively release, acquit and discharge the Debtors, their Estates, and the Released Parties from any and all actions, claims, interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims or claims for recharacterization, subordination, or avoidance of the Prepetition Secured Credit Facility Claims, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that each Releasing Party would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the Sale Transaction, the Restructuring Transactions, the purchase, sale or rescission of the purchase or sale of any security of the Debtors, or the Buyer, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Restructuring Documents, or related agreements, instruments, or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan; *provided*, in accordance 11 U.S.C. § 1141(d)(3), the foregoing shall not discharge the Debtors from such actions, claims, interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities. For the further avoidance of doubt, no provision of this Plan or any Order of this Bankruptcy Court relieves the Debtors or any other persons or entities that are members of the Controlled Group, from the obligation to comply with ERISA, and the rules, regulations and orders promulgated thereunder by the PBGC. PBGC's rights and powers to take any action pursuant to its statutory and regulatory authority, including, but not limited to, termination of Debtor's covered pension plans and enforcement of ERISA and PBGC's regulations and the filing of statutory liens pursuant to 26 U.S.C. § 430(k) and/or 29 U.S.C. § 1368 against nondebtor Controlled Group members, are fully preserved, and nothing herein shall proscribe or constrain PBGC's exercise of such power or authority. The Confirmation Order shall be a judicial determination of the settlement, compromise, and release of all Claims and Interests in accordance with the Plan subject to the Effective Date occurring.

*E. Exculpation.*

As of the Effective Date, each Debtor and each Released Party shall be deemed to be released and exculpated from any claim, obligation, Cause of Action, or liability for any Exculpated Claim, but in all respects each Debtor and each Released Party shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Debtors, their Estates, and the Released Parties have, and upon the Consummation of the Plan, shall be deemed to have, participated in good faith and in compliance with applicable law with regard to the restructuring of Claims and Interests in the Chapter 11 Cases and in connection with the Restructuring Transactions, the Sale Transaction, the negotiation, formulation, or preparation of the Restructuring Documents or related agreements, instruments, or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion) in connection with the Plan, and the solicitation of the Plan and distributions pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.



*F. Protections Against Discriminatory Treatment after the Effective Date.*

28 U.S.C. § 959(b) and section 525 of the Bankruptcy Code shall apply to the Debtors and the Copano Beds and Ranch Administrator following the Effective Date.

*G. Injunction.*

**Except as otherwise expressly provided in the Plan, including Article IV.D.9, or for obligations issued or required to be paid pursuant to the Plan or the Confirmation Order, all Entities who have held, hold, or may hold claims or interests that have been released pursuant to Article VIII.B, Article VIII.C or Article VIII.D of the Plan, compromised and settled pursuant to Article VIII.A of the Plan, or are subject to exculpation pursuant to Article VIII.E of the Plan shall be deemed to be permanently enjoined, on and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors or the Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claim or interest; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests unless such entity has timely Filed a Proof of Claim with the Bankruptcy Court preserving such right of setoff, subrogation, or recoupment; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such released, compromised, settled, or exculpated claims or interests.**

*H. Setoffs.*

Except as otherwise expressly provided for in the Plan, each Debtor, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, the Prepetition Secured Lender, or the Buyer, as applicable, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may set off against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that such Debtor, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, the Prepetition Secured Lender, or the Buyer, as applicable, may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or before the Effective Date (whether pursuant to the Plan or otherwise); *provided* that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by such Debtor, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, the Prepetition Secured Lender, or the Buyer, as applicable, of any such claims, rights, and Causes of Action that such Debtor, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, the Prepetition Secured Lender, or the Buyer, as applicable, may possess against such Holder. In no event shall any Holder of Claims be entitled to set off any Claim against any Claim, right, or Cause of Action of a Debtor, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, the Prepetition Secured Lender, or the Buyer, as applicable, unless such Holder has timely Filed a Proof of Claim with the Bankruptcy Court preserving such setoff. Nothing in the Confirmation Order or the Plan, including, without limitation, the preceding sentence, shall affect any setoff or recoupment rights of any Governmental Unit under applicable law, and all claims or defenses of the Debtors, the Buyer, the DIP Lender, and all other Entities with respect to such rights are fully reserved and preserved in all respects.

*I. Recoupment.*

In no event shall any Holder of Claims or Interests be entitled to recoup any Claim against any claim, right, or Cause of Action of the Debtors, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP



Lender, the Prepetition Secured Lender, or the Buyer, as applicable, unless such Holder actually has timely Filed a Proof of Claim with the Bankruptcy Court preserving such recoupment.

*J. Subordination Rights.*

The classification and treatment of all Claims and Interests under the Plan shall conform to and with the respective contractual, legal, and equitable subordination rights of such Claims and Interests, and any such rights shall be settled, compromised, and released pursuant to the Plan.

*K. Document Retention.*

On and after the Effective Date, the Debtors may maintain documents in accordance with their standard document retention policy, as may be altered, amended, modified, or supplemented by the Debtors; *provided* that with respect to documents that are Acquired Assets of which the Debtors retain copies, the Debtors, the Copano Beds and Ranch Administrator, the Plan Administrator, the DIP Lender, the Prepetition Secured Lender, or the Buyer, as applicable, may destroy such documents at the Buyer's sole cost and expense. However, the Debtors shall transfer, convey, and deliver all records related to, or necessary for the administration of, the Pension Plans to Glencore Ltd. within 60 days of the date on which Glencore Ltd. assumes the Pension Plans.

*L. Reimbursement or Contribution.*

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless before the Confirmation Date: (1) such Claim has been adjudicated as non-contingent or (2) the relevant Holder of a Claim has Filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered before the Confirmation Date determining such Claim as no longer contingent.

**ARTICLE IX  
CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE**

*A. Conditions Precedent to Confirmation.*

It shall be a condition to Confirmation of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C of the Plan: (1) the Bankruptcy Court shall have entered the Confirmation Order; and (2) the Purchase Agreement shall not have been terminated in accordance with its terms.

*B. Conditions Precedent to the Effective Date.*

It shall be a condition to Consummation that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C of the Plan:

1. the Bankruptcy Court shall have entered the Confirmation Order; *provided* that in accordance with Bankruptcy Rules 3020(e), 6004(h), and 6006(d) (and notwithstanding any other provision of the Bankruptcy Code or the Bankruptcy Rules), the Confirmation Order shall not be stayed and shall be effective immediately upon its entry;

2. all documents and agreements necessary to implement the Plan, including all documents related to the Sale Transaction shall have (a) all conditions precedent to the effectiveness of such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery, and (c) been effected or executed;

3. other than with respect to any Environmental Claims, all governmental and material third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan and Purchase Agreement shall have been obtained, not be subject to unfulfilled conditions

and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions;

4. the Professional Fee Escrow Account shall have been funded with Cash in the amount of the aggregate Professional Fee Escrow Amount for all Professionals;

5. the Debtors shall have established and funded the Environmental Claims Cash Amount as of the Effective Date in accordance with the terms of the Plan;

6. the Disputed Claims Reserve shall have been established and funded;

7. no termination event shall have occurred under the Purchase Agreement, and the Purchase Agreement shall not have been terminated in accordance with its terms;

8. the Global Settlement Priority Claims Funding Amount (if any) shall not exceed the Global Settlement Priority Claims Funding Cap;

9. Glencore Ltd. shall have assumed the Pension Plans (notwithstanding Article IX.C. of the Plan, this condition shall not be waived without prior written consent of PBGC);

10. the Debtors shall have reserved as of the Effective Date an amount not less than \$1,500,000 to fund a portion of the Global Settlement GUC Debtor Reserve; and

11. the DIP Lender (or an Affiliate thereof) shall have funded the Global Settlement GUC Funding Amount and the Global Settlement Priority Claims Funding Amount (if any).

C. *Waiver of Conditions.*

The conditions to Confirmation and Consummation set forth in Article IX of the Plan may be waived only by prior written consent of the Debtors and the DIP Lender, without notice, leave, or order of the Bankruptcy Court or any formal action other than proceedings to confirm or consummate the Plan. Upon the occurrence of all the conditions to Confirmation and Consummation set forth in Article IX of the Plan, the Debtor shall immediately declare the Effective Date.

**ARTICLE X  
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

A. *Modification and Amendments.*

Except as otherwise specifically provided in the Plan, the Debtors, with the prior written consent of the DIP Lender, reserve the right to modify the Plan, whether materially or immaterially, and seek Confirmation, in each instance, to the extent permitted under the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors, with the prior written consent of the DIP Lender, expressly reserve their rights to alter, amend, or modify materially the Plan with respect to the Debtors, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article X of the Plan.

*B. Effect of Confirmation on Modifications.*

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof and before the Confirmation Date are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

*C. Revocation or Withdrawal of the Plan.*

The Debtors, with the prior written consent of the DIP Lender, reserve the right to revoke or withdraw the Plan with respect to one or more of the Debtors before the Confirmation Date or the Effective Date and to file subsequent plans under chapter 11 of the Bankruptcy Code. If the Debtors revoke or withdraw the Plan with respect to any Debtor, or if Confirmation or Consummation does not occur with respect to any Debtor, then: (1) the Plan with respect to such Debtor shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan with respect to such Debtor (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption and assignment or rejection of Executory Contracts or Unexpired Leases effected by the Plan with respect to such Debtor, and any document or agreement executed pursuant to the Plan with respect to such Debtor, shall be deemed null and void; and (3) nothing contained in the Plan with respect to such Debtor shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors or any other Entity; *provided* that such revocation or withdrawal shall not in any way limit, prejudice, or otherwise affect the ability of the Debtors, the DIP Lender, or the Buyer, as applicable, to consummate the Sale Transaction pursuant to section 363 of the Bankruptcy Code if the Debtors revoke the Plan without the prior written consent of the Buyer or the DIP Lender. If the Debtors revoke the Plan and pursue the Sale Transaction pursuant to section 363 of the Bankruptcy Code, it shall be subject to notice of not less than 14 days with a hearing.

**ARTICLE XI  
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over the Chapter 11 Cases and all matters, arising out of, or related to, the Chapter 11 Cases and the Plan, including jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. Decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;
3. Resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable in any manner and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Amounts pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed and/or assigned; (c) the Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to Article V of the Plan, any Executory Contracts or Unexpired Leases to the Schedule of Assumed Executory Contracts or Unexpired Leases or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory or expired;
4. Ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished pursuant to the provisions of the Plan;

5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;
6. Adjudicate, decide, or resolve any and all matters related to Causes of Action;
7. Adjudicate, decide or resolve any and all matters related to environmental law that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
8. Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;
9. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;
10. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
11. Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;
12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, releases, injunctions, exculpations, and other provisions contained in Article VIII of the Plan and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;
13. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Interest for amounts not timely repaid pursuant to Article VI.E of the Plan;
14. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
15. Determine any other matters that may arise in connection with or relate to the Plan, the Purchase Agreement, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;
16. Adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;
17. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
18. Determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;
19. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;
20. Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

21. Hear and determine matters concerning section 1145 of the Bankruptcy Code;
22. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' release, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred before or after the Effective Date;
23. Enforce all orders previously entered by the Bankruptcy Court;
24. To resolve any disputes arising under the Purchase Agreement or other documents related to the Sale Transaction;
25. Hear any other matter not inconsistent with the Bankruptcy Code;
26. Enter an order concluding or closing the Chapter 11 Cases;
27. Subject to the provisions of Article IV.D.10 of the Plan, hear and determine matters concerning any Environmental Claims; and
28. Enforce the injunction, release, and exculpation provisions set forth in Article VIII of the Plan.

## **ARTICLE XII MISCELLANEOUS PROVISIONS**

### *A. Immediate Binding Effect.*

Subject to Article IX of the Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, any and all Holders of Claims or Interests (irrespective of whether the Holders of such Claims or Interests accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunction described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

### *B. Additional Documents.*

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, all Holders of Claims or Interests receiving distributions pursuant to the Plan, and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

### *C. Payment of Statutory Fees.*

All fees payable pursuant to section 1930(a) of the Judicial Code shall be paid by the Debtors for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

### *D. Dissolution of Statutory Committees.*

On the Effective Date, any statutory committee appointed in the Chapter 11 Cases (including the Committee) shall dissolve and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases. The Debtors, the Plan Administrator, the Copano Beds and Ranch Administrator, the DIP Lender, and the Prepetition Secured Lender shall no longer be responsible for paying any fees or expenses incurred by the members of or advisors to any statutory committees after the Effective Date.

*E. Reservation of Rights.*

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by any Debtor, the DIP Lender, the Prepetition Secured Lender, or the Buyer with respect to the Plan or any other Restructuring Document shall be or shall be deemed to be an admission or waiver of any rights of any Debtor, the DIP Lender, the Prepetition Secured Lender, or the Buyer with respect to the Holders of Claims or Interests before the Effective Date.

*F. Successors and Assigns.*

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, Affiliate, officer, director, manager, trustee, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

*G. Service of Documents.*

Any pleading, notice, or other document required by the Plan to be served on or delivered to the Debtors shall be served on:

1. **the Debtors:**

Sherwin Alumina Company, LLC  
Attn.: Kent Britton  
c/o Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Facsimile: (312) 862-2200  
Attn.: Gregory F. Pesce  
E-mail address: gregory.pesce@kirkland.com

2. **the Prepetition Secured Lender or the DIP Lender:**

c/o Commodity Funding, LLC  
301 Tresser Blvd., #1500  
Stamford, CT 06901  
Attn.: Andrew Smith  
E-mail address: andy.smith@glencore-us.com

With copies to:

Curtis, Mallet-Prevost, Colt & Mosle LLP  
101 Park Avenue  
New York, New York 10178-0061  
Facsimile: (212) 697-1559  
Attn.: Steven J. Reisman, Shaya Rochester  
E-mail addresses: sreisman@curtis.com, srochester@curtis.com

3. **the Committee:**

c/o Andrews Kurth LLP  
600 Travis Street  
Houston, Texas 77002



Attn.: Robin Russell  
Email Address: rrussell@andrewskurth.com

After the Effective Date, the Debtors have authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entity must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

*H. Treatment of Certain Employee and Former Employee Benefit Programs.*

As of the date immediately prior to the Effective Date, any benefits or other obligations to any of the Debtors' current employees and/or former employees or any survivors or dependents thereof with respect to severance, retiree medical benefits, and/or other post-employment health and welfare (and non-qualified retirement) benefits, other than any retention payments authorized pursuant to the Valued Employees Program, shall be deemed terminated to the extent not terminated previously pursuant to the Union Closure Agreement. As of the Effective Date, the Debtors shall make any remaining payments authorized pursuant to the Valued Employees Program, at which time the Debtors shall have no employees, and all liabilities (if any) to former employees for severance, retiree medical benefits, and/or other post-employment health and welfare (and non-qualified retirement) benefits shall be treated in accordance with the Plan. For the avoidance of doubt, Glencore Ltd. shall assume the Pension Plans upon the Effective Date.

*I. Establishment of the Union Settlement Escrow.*

If Class 4B votes to accept the Plan, the Plan is confirmed, the Effective Date occurs, and the total Allowed General Unsecured Claims as of the Effective Date are less than \$47,500,000, then, on the Effective Date, the Debtors shall fund the Union Settlement Escrow in the amount set forth in the Global Settlement GUC Distribution, which amount shall be held in trust for the benefit of Union Members on account of their respective Claims under the Expired CBA. The DIP Lender shall have a reversionary interest in the excess, if any, of the Union Settlement Reserve.

*J. Enforcement of Confirmation Order.*

On and after the Effective Date, the Debtors, the DIP Lender, the Prepetition Secured Lender, and the Buyer, as applicable, shall be entitled to enforce the terms of the Confirmation Order and the Plan.

*K. Term of Injunctions or Stays.*

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order (including the injunction set forth in Article VIII.G of this Plan) shall remain in full force and effect in accordance with their terms. For the avoidance of doubt, this section does not apply to the TCEQ.

*L. Entire Agreement.*

Except with respect to the transactions set forth in the Purchase Agreement and the Noranda Settlement Order or as specifically set forth herein, the Plan, the Confirmation Order, and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations made in these Chapter 11 Cases, all of which have become merged and integrated into the Plan.

*M. Exhibits.*

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Debtors' restructuring website at <http://www.kccllc.net/sherwin> or the Bankruptcy Court's website at [www.txsb.uscourts.gov](http://www.txsb.uscourts.gov).

*N. Nonseverability of Plan Provisions.*

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors; and (3) nonseverable and mutually dependent.

*O. Waiver or Estoppel.*

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court before the Confirmation Date.

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Respectfully submitted, as of the date first set forth above,

Dated: January 4, 2017

Sherwin Alumina Company, LLC  
(for itself and Sherwin Pipeline, Inc.)

By: /s/ Kent Britton  
Name: Kent Britton  
Title: Authorized Signatory

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